



**STATE OF MARYLAND  
MARYLAND DEPARTMENT OF HEALTH(MDH)  
REQUEST FOR PROPOSALS (RFP)**

**MARYLAND YOUTH RISK BEHAVIOR SURVEY AND YOUTH  
TOBACCO SURVEY (YRBS/YTS)  
RFP NUMBER OPASS 20-18471**

**ISSUE DATE: JULY 29,2019**

**NOTICE**

A Prospective Offeror that has received this document from a source other than eMarylandMarketplace (eMM) <https://emaryland.buyspeed.com/bsol> should register on eMM. See **Section 4.2**.

**MINORITY BUSINESS ENTERPRISES ARE ENCOURAGED TO  
RESPOND TO THIS SOLICITATION.**

**VENDOR FEEDBACK FORM**

To help us improve the quality of State solicitations, and to make our procurement process more responsive and business friendly, please provide comments and suggestions regarding this solicitation. Please return your comments with your response. If you have chosen not to respond to this solicitation, please email or fax this completed form to the attention of the Procurement Officer (see Key Information Summary Sheet below for contact information).

**Title: Maryland Youth Risk Behavior Survey and Youth Tobacco Survey (YRBS/YTS)**  
**Solicitation No: OPASS 20-18471**

1. If you have chosen not to respond to this solicitation, please indicate the reason(s) below:
  - ☐ Other commitments preclude our participation at this time
  - ☐ The subject of the solicitation is not something we ordinarily provide
  - ☐ We are inexperienced in the work/commodities required
  - ☐ Specifications are unclear, too restrictive, etc. (Explain in REMARKS section)
  - ☐ The scope of work is beyond our present capacity
  - ☐ Doing business with the State is simply too complicated. (Explain in REMARKS section)
  - ☐ We cannot be competitive. (Explain in REMARKS section)
  - ☐ Time allotted for completion of the Proposal is insufficient
  - ☐ Start-up time is insufficient
  - ☐ Bonding/Insurance requirements are restrictive (Explain in REMARKS section)
  - ☐ Proposal requirements (other than specifications) are unreasonable or too risky (Explain in REMARKS section)
  - ☐ MBE or VSBE requirements (Explain in REMARKS section)
  - ☐ Prior State of Maryland contract experience was unprofitable or otherwise unsatisfactory. (Explain in REMARKS section)
  - ☐ Payment schedule too slow
  - ☐ Other: \_\_\_\_\_
2. If you have submitted a response to this solicitation, but wish to offer suggestions or express concerns, please use the REMARKS section below. (Attach additional pages as needed.)

**REMARKS:**

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Vendor Name: \_\_\_\_\_ Date: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**STATE OF MARYLAND**  
**MARYLAND DEPARTMENT OF HEALTH (MDH)**  
**KEY INFORMATION SUMMARY SHEET**

<b>Request for Proposals</b>	Services- Maryland Youth Risk Behavior Survey and Youth Tobacco Survey (YRBS/YTS)
<b>Solicitation Number:</b>	OPASS 20-18471
<b>RFP Issue Date:</b>	07/29/2019
<b>RFP Issuing Office:</b>	Center for Tobacco Prevention and Control or "CTPC" Prevention and Health Promotion Administration Bureau of Cancer and Chronic Disease Prevention Maryland Department of Health (MDH or the "Department")
<b>Procurement Officer:</b>  <b>e-mail:</b> <b>Office Phone:</b>	Dana Dembrow, Director OPASS 201 W Preston St, RM 416, Baltimore, MD 21201 <a href="mailto:MDH.solicitationquestions@maryland.gov">MDH.solicitationquestions@maryland.gov</a> 410-767-0974
<b>Proposals are to be sent to:</b>	John Gullucci, Contract Officer MDH, Office of Procurement and Support Services 201 W Preston St RM 416D-2 Baltimore, MD 21201
<b>Pre-Proposal Conference:</b>	August 15 <sup>th</sup> , 2019 at 1:00 PM Local Time 201 W Preston St Rm L-3 Baltimore, MD 21201 See <b>Attachment A</b> for directions and instructions.
<b>Questions Due Date and Time</b>	September 9, 2019 at 2:00 PM Local Time
<b>Proposal Due (Closing) Date and Time:</b>	September 16 <sup>th</sup> , 2019 at 2:00 PM Local Time Offerors are reminded that a completed Feedback Form is requested if a no-bid decision is made (see <b>page iv</b> ).
<b>MBE Subcontracting Goal:</b>	25% with the following subgoals: 8% for African-American MBEs, 4% for Asian-American MBEs, and 13% for Woman-Owned MBEs.
<b>VSBE Subcontracting Goal:</b>	1%

<b>Contract Type:</b>	The Contract resulting from this solicitation shall be a firm fixed-price contract as defined in COMAR 21.06.03.02A(1).
<b>Contract Duration:</b>	Six (6) years and six (6) months
<b>Primary Place of Performance:</b>	This solicitation does not require a Location of the Performance of Services Disclosure.
<b>SBR Designation:</b>	This solicitation is not designated as a Small Business Reserve (SBR) Procurement.
<b>Federal Funding:</b>	This Contract does not contain Federal funds.

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# **1 Minimum Qualifications**

## **1.1 Offeror Minimum Qualifications**

There are no Offeror Minimum Qualifications for this procurement.

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## 2 Contractor Requirements: Scope of Work

### 2.1 Summary Statement

- 2.1.1 The Maryland Department of Health (MDH or the "Department") Center for Tobacco Prevention and Control (CTPC) is issuing this Request for Proposals (RFP) to award a Contract to an Offeror that can administer three (3) upcoming cycles of the combined Maryland Youth Risk Behavior Survey and Youth Tobacco Survey (YRBS/YTS) in select Maryland public middle and high schools; provide comprehensive training and technical assistance to State and local partners; and develop and design State-level and jurisdiction-level public facing materials featuring data from current and previous surveys to disseminate to local school systems and other stakeholders (e.g. fact sheets, infographics, snapshots, etc.).
- 2.1.2 It is the State's intention to obtain goods and services, as specified in this RFP, from a Contract between the selected Offeror and the State.
- 2.1.3 The Department intends to make a single award as a result of this RFP. See RFP **Section 4.9 Award Basis** for more Contract award information.
- 2.1.4 An Offeror, either directly or through its Subcontractor(s), must be able to provide all goods and services and meet all of the requirements requested in this solicitation and the successful Offeror (the Contractor) shall remain responsible for Contract performance regardless of Subcontractor participation in the work.

### 2.2 Background and Purpose

#### 2.2.1 Project Goals

The Department is seeking to award a Contract to an entity that can administer three (3) cycles of the Maryland YRBS/YTS in selected public schools (with a minimum of 70% response rate per cycle); provide comprehensive training and technical assistance to State and local partners; and develop and design State- and jurisdiction-level public facing materials to disseminate to local school systems and other stakeholders.

- 2.2.2 **The Maryland YRBS/YTS is a Center for Disease Control and Prevention (CDC) sponsored anonymous survey that collects data on youth health risk behaviors that contribute to the leading causes of mortality and morbidity and tracks those behaviors over time. The survey is conducted by the Department in collaboration with the Maryland State Department of Education (MSDE). During the last administration of the Maryland YRBS/YTS (fall 2018), approximately 370 public middle and high schools were selected to be surveyed, which amounts to 1,400 public middle school classrooms with 33,000 students and 2,500 public high school classrooms with 51,000 students. This survey is conducted to maintain surveillance of youth tobacco use behaviors as mandated by Md. Health-General Code Ann. §13–1003 and §13–1004 and other youth risk behaviors as mandated by Md. Education Article §7–420. The Maryland YRBS/YTS produces data for each of Maryland's 23 counties and Baltimore City, as well as Maryland Statewide. Separate paper survey instruments are administered to middle and high school students. The resulting data allows the Department and stakeholders to effectively plan and evaluate programs, interventions, and policies that address negative behaviors and promote positive behaviors. Key Agencies and Roles**

Implementation of a large and complex survey requires collaboration with many partners. In addition to the Procurement Officer and Contract Monitor who are the main contacts for this Contract, upon award

the Contractor shall communicate and work closely with the other agencies and entities involved with the Maryland YRBS/YTS survey listed in subsections B-G below.

- A. **The Contractor and its Subcontractor(s).** The Contractor and its subcontractor(s) are tasked with completing all requirements listed in this RFP, including but not limited to, implementing three (3) cycles of the Maryland YRBS/YTS, hosting and organizing all survey-related trainings, and designing data and training materials. To meet the requirements of this RFP the Contractor or its subcontractor(s) shall designate **Data Collectors**.

**Data Collectors** are designated by the Contractor and/or its Subcontractor(s) to visit selected middle and high schools to conduct and oversee Maryland YRBS/YTS administration.

- B. **Center for Tobacco Prevention and Control (CTPC).** The Contract Monitor is housed in the Center for Tobacco Prevention and Control at the Maryland Department of Health. The Contract Monitor and other personnel within CTPC will work with the Contractor to oversee and monitor implementation of the Maryland YRBS/YTS and all supplemental activities.
- C. **Maryland State Department of Education (MSDE).** MSDE shares the Maryland YRBS/YTS planning and implementation responsibilities with CTPC. The Contractor shall work with personnel at MSDE who act as a liaison between the local school systems and State-level entities. MSDE will provide school-level enrollment data for school selection and assists with the development of trainings for Maryland YRBS/YTS implementation.
- D. **Centers for Disease Control and Prevention (CDC).** The CDC Department of Adolescent and School Health (DASH) sets guidelines and protocols for implementation of the Maryland YRBS/YTS that the Contractor must follow. The Contract Monitor will provide the Contractor with the contact information for personnel at CDC DASH upon award.
- E. **CDC Data Agency.** CDC Data Agency oversees analysis and resulting sample selection and design, weighting and analyzing collected data, and production of primary data products. The CDC Data Agency shall deliver to the Contract Monitor complete copies of cleaned and weighted data sets for the Maryland YRBS/YTS. The CDC Data Agency will provide the Contractor with technical assistance in all aspects of survey administration, including class selection parameters, data collection, and preparation of the data for analysis. The Contract Monitor will provide the Contractor with the contact information for CDC Data Agency personnel assigned to the Maryland YRBS/YTS upon award.
- F. **District Coordinators.** District Coordinators, appointed by the Superintendent of each school district, are tasked with coordinating survey administration schedules for each selected school within their District, and facilitating communication between CTPC, MSDE, each selected school in their Districts, and the Contractor. The Contractor and/or its subcontractor(s) shall communicate with each District Coordinator to determine how the selected schools should be contacted for scheduling prior to survey administration.
- G. **School-Level Points of Contact (POCs).** School-Level POCs are appointed at each school that is selected to be surveyed during the Maryland YRBS/YTS administration cycle. School-Level POCs are responsible for receiving and distributing survey opt out forms to each classroom selected to take the survey, ensuring accurate reported student enrollment numbers for each selected classroom, and working closely with the Contractor's designated Data Collectors. During survey administration, the Contractor and/or its subcontractor(s) shall be in regular contact with the School-Level POCs regarding scheduling, class enrollment lists, and distribution of opt out forms.

### 2.2.3 History of the Maryland YRBS/YTS

Maryland programs are data-driven and evidence-based to ensure programs are effectively reaching populations disproportionately impacted by tobacco use and other health risk behaviors. Youth and adult health risk behaviors have been tracked on an ongoing basis to determine trends over time and provide programmatic direction. Surveillance of youth and adult health risk behaviors are conducted using cross-sectional surveys. The data collected by the Maryland YRBS/YTS tracks youth health risk behaviors, while adult health risk behaviors are tracked separately as part of the Behavioral Risk Factor Surveillance System (BRFSS). The BRFSS does not fall under the purview of this Contract.

The Youth Risk Behavior Survey (YRBS) is a survey tool funded by the CDC that measures health risk behaviors in youth and tracks those behaviors over time primarily from students in high school. Biennial surveillance of other youth risk behaviors including safety behaviors, depression and mental health, alcohol, tobacco use or other drugs, nutrition and physical activity, and sexual behavior was also mandated by State statute (Md. Education Article §7–420). Starting in 2005, MSDE conducted the YRBS in the Spring of odd years at a State-level for youth in high school to track these priority health risk behaviors.

CDC’s Youth Tobacco Survey (YTS) measures youth tobacco use behaviors, secondhand smoke exposure, and tobacco-related attitudes and beliefs for youth in middle and high school. Biennial surveillance of youth tobacco use behaviors is mandated by State statute (Md. Health-General Code Ann. §13–1003 and §13–1004). To comply with these statutes, the Department implemented the YTS as the baseline survey in 2000 for surveillance of tobacco use behaviors for youth in middle and high school. The YTS was then conducted biennially in the fall of even years at a jurisdiction-level.

In 2013, Maryland combined the YRBS and YTS (YRBS/YTS), utilizing the YRBS survey methodology, to create one survey tool to reduce the survey burden on schools and students. This survey tool is disseminated to selected schools by the Department with assistance from MSDE. This combined survey allows Maryland to stay in compliance with all relevant State statutes and allows for the surveillance of all priority risk behaviors in one survey tool. All middle schools and high schools in Maryland selected to participate in the biennial Maryland YRBS/YTS are mandated by statute to do so; however, parents may opt their child out of the survey by signing and returning the parental opt out form. See Attachment Q for more information.

#### **2.2.4 Maryland YRBS/YTS Survey Cycle**

Survey administration for the Maryland YRBS/YTS is conducted in cycles. The survey is administered in the fall of every even calendar year, however, there are deliverables that are required leading up to and following the completion of survey administration. Each Maryland YRBS/YTS Survey Cycle covers two (2) calendar years and three (3) fiscal years. The Survey Cycle begins with the submission of a Work Plan by the Contractor. Upon approval of the Work Plan, the Contractor shall plan and conduct trainings for appointed personnel, develop data materials for each school system and other stakeholders, and designate and train its Data Collectors to implement the survey in-person to the selected schools. The Contractor shall work with MSDE and the CDC Data Agency to select classrooms for survey administration and complete survey administration in all selected schools. Following the completion of survey administration, the Contractor shall transmit all the collected data to the CDC Data Agency and submit a report to the Contract Monitor detailing all aspects of survey administration. Interim trainings and preparation will then begin for the next survey cycle, which begins with a new Work Plan from the Contractor.

Refer to **Attachment R** for a more detailed example of the Contract deliverable timeline.

<b>SAMPLE MARYLAND YRBS/YTS SURVEY CYCLE</b>
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<b><u>TIME PERIODS</u></b>	<b><u>DELIVERABLES</u></b>
SURVEY CYCLE YEAR 1: January 1 – December 31	<ul style="list-style-type: none"> <li>A. Planning Meeting</li> <li>B. Submit final Work Plan for the cycle</li> <li>C. Create and design data materials and training materials</li> <li>D. Conduct District Coordinator trainings</li> <li>E. Designate and train Data Collectors</li> <li>F. Complete classroom selections for all selected schools</li> <li>G. Complete survey administration in all selected schools (Expected September- December)</li> </ul>
SURVEY CYCLE YEAR 2: January 1 – December 31	<ul style="list-style-type: none"> <li>A. Transmit all collected data to CDC Data Agency</li> <li>B. Submit Maryland YRBS/YTS Administration Report to the Contract Monitor</li> <li>C. Begin preparing for the next Survey Cycle</li> <li>D. Interim training with District Coordinators</li> <li>E. Monitor CDC Data Agency release of State and district-level data</li> <li>F. Submit draft Work Plan for next Survey Cycle</li> <li>G. Attend preliminary planning meetings for next Survey Cycle</li> </ul>

### 2.2.5 Existing Data Management and Reporting

Past Maryland YRBS/YTS data products are maintained within MDH (primarily CTPC and the Center for Chronic Disease Prevention and Control). Data products containing summary and detailed tables are produced by the CDC Data Agency for Maryland Statewide as well as for each jurisdiction. Data products from past youth surveys may be found at: <https://phpa.health.maryland.gov/ccdpc/Reports/Pages/YRBS-Main.aspx>.

Pursuant to Health-General Article, §13-1004(d), Annotated Code of Maryland, the Department is directed to produce a biennial legislative report on tobacco use behaviors from the results of the biennial Maryland YRBS/YTS and the adult surveys. This report, *Monitoring Changing Tobacco Use Behaviors: Maryland 2000-2016*, is produced by CTPC using data from previous Maryland YRBS/YTS cycles. The biennial legislative report is due on May 31<sup>st</sup> of every even year. Reports may be found at [https://phpa.health.maryland.gov/ohpetup/Pages/tob\\_reports.aspx](https://phpa.health.maryland.gov/ohpetup/Pages/tob_reports.aspx).

In addition, the Center for Chronic Disease Prevention and Control publishes a summary report on all youth risk behaviors tracked in the Maryland YRBS/YTS: <https://phpa.health.maryland.gov/ccdpc/Reports/Documents/2014%20YRBS%20Reports/2014%20Maryland%20YRBS%20Report.pdf>.

The Department also uses the Maryland YRBS/YTS data for other legislatively mandated reports as well as for required federal reporting, program planning, funding determination for local health departments, and program evaluation. Stakeholders utilize the data to support programmatic and policy efforts.

### 2.2.6 Other State Responsibilities



- A. MDH is responsible for providing required information, data, documentation, and contact information to facilitate the Contractor's performance of the work and will provide such additional assistance and services as is specifically set forth.
- B. With the assistance of the CDC Data Agency, MDH is responsible for primary data analysis and production of the reports described in **Section 2.2.5**. Primary data analysis does not fall under the scope of this Contract.
- C. MDH is responsible for providing MSDE and the local health departments with the primary data products produced by the CDC Data Agency.
- D. MDH and MSDE are responsible for providing the Contractor with student enrollment numbers for all public middle and high schools in the State.

## 2.3 Responsibilities and Tasks

The Contractor shall:

### 2.3.1 Plan Three Complete Maryland YRBS/YTS Survey Cycles

2.3.1.1 **Utilize Ongoing CDC Technical Assistance.** CDC has established the protocols for the survey administration and data analysis which are available at <https://www.cdc.gov/healthyyouth/data/yrbs/index.htm>. Throughout each survey cycle, the Contractor shall contact the assigned CDC personnel for any survey methodology and administration technical assistance needs. The CDC Data Agency will, with input from MSDE and MDH, make the random selection of schools that will participate in the Maryland YRBS/YTS and provide these to the Contractor. The CDC Data Agency will also provide the Contractor with class selection parameters and machine-readable answer sheets for all participating students. Upon completion of survey administration by the Contractor, the CDC Data Agency will scan all completed answer sheets, clean and weight the Maryland YRBS/YTS data set, and conduct primary data analysis and reporting.

2.3.1.2 **Provide Training and Technical Assistance for District Coordinators, POCs, and Teachers.** The Contractor shall be responsible for hosting all in-person trainings and webinars as listed in 2.3.1.2 sections A-C below. In-person trainings shall be held at a Maryland-based location that has convenient and free parking areas for all guests and space to host at least 25 people per session with all necessary technological needs. While CTPC prefers in-person trainings, it is understood that all appointed personnel may not be able to travel. Therefore, the Contractor shall offer at least one follow-up webinar for those who cannot attend in person. The Contractor shall provide a platform that can be accessed by most school systems such as Webex, GoToWebinar, or Zoom to host all webinars. The webinar(s) and/or slides shall be made available for future reference.

The Contractor shall present along with representatives from CTPC and MSDE. Training topics may include but are not limited to: background and purpose of the Maryland YRBS/YTS, survey sampling, parental permissions, roles and responsibilities of MDH, MSDE, appointed personnel, and the Contractor.

All PowerPoints, handouts, training, and other materials will be reviewed and approved by the Contract Monitor prior to conducting trainings. The Contract Monitor will review all materials produced for acceptability and may request edits and further information, as needed. Approval may also be required by higher governmental authorities; final edits required by this review process will be the responsibility of the Contractor.

- A. District Coordinator In-Person and Webinar Trainings.** The Contractor shall conduct and host at least two (2) in-person trainings for the District Coordinators anticipated no later than June prior to survey administration. The Contractor shall conduct and host at least one webinar for the District Coordinators no later than August prior to survey administration. Upon successful completion of the District Coordinator trainings, the Contractor shall submit to the Contract Monitor within 10 days: (1) a copy of the invitation email, (2) final and approved presentation materials (e.g. PowerPoint slides), (3) list of attendees and agenda, (4) sign-in sheets, and (5) training and feedback evaluation summaries.
- B. Training Materials for District Coordinators, POCs, and Teachers.** The Contractor shall develop training materials for District Coordinators, School-Level POCs, and classroom teachers (e.g. website, manual, checklist, and/or informational videos). These training materials shall describe the roles and duties of personnel involved in survey administration. The Contractor is responsible for producing copies of training materials for in-person meetings and disseminating the training materials to the District Coordinators and School-Level POCs prior to survey administration.
- C. District Coordinator Interim Trainings.** The Contractor shall conduct and host at least one (1) in-person training for District Coordinators following survey administration in selected schools. Additional trainings or meetings during non-survey years (2021, 2023, 2025) may be necessary to review district-level and school-level survey protocols and debrief regarding past survey administration. This meeting is anticipated to occur in the spring of non-survey years. Upon successful completion of the District Coordinator Interim trainings, the Contractor shall submit to the Contract Monitor within 10 days: (1) a copy of the invitation email, (2) final and approved presentation materials (e.g. PowerPoint slides), (3) list of attendees and agenda, (4) sign-in sheets, and (5) training and feedback evaluation summaries.

- 2.3.1.3 **Obtain IRB Approval and Ethical Research Training.** It is required that an Institutional Review Board (IRB) approve the Contractor's Maryland YRBS/YTS project application and protocols prior to beginning the survey administration process. The Contractor shall provide documentation of IRB approval to the Contract Monitor, as well as documentation of ethical research training received by the Contractor and its subcontractors within the past 3 years for all staff involved in survey administration as required by the Maryland IRB: <https://health.maryland.gov/oig/irb/Pages/IRB.aspx>. Documentation of Ethical Research Training shall be submitted to the Contract Monitor no later than five (5) days prior to survey administration. CTPC will submit its own project application to the Maryland IRB and submit any updated materials prior to conducting survey administration for each Survey Cycle (e.g., survey questionnaires, opt out forms, etc.). MDH IRB approval must be received prior to survey implementation. The Contract Monitor will notify the Contractor of such approval.
- 2.3.1.4 **Random Selection of Classrooms.** The Contractor shall randomly select classrooms within schools selected by the CDC Data Agency for participation in the Maryland YRBS/YTS in full compliance with CDC methodology: <https://www.cdc.gov/healthyyouth/data/yrbs/methods.htm>. The CDC Data Agency provides the sampling parameters and selection intervals that the Contractor shall use for selecting classrooms within the selected schools. The District Coordinator will provide the Contractor with eligible classroom lists for each selected school from the local school districts. Subject only to the availability of eligible class lists, random selection of classrooms shall be

completed no later than the end of September for each Maryland YRBS/YTS Survey Cycle (2020, 2022, and 2024).

- 2.3.1.5 **Distribute and Track Parental Consent Materials.** The Contractor is solely responsible for ensuring that no student is invited to participate in the Maryland YRBS/YTS administration without the consent of a student's parent or legal guardian as provided by the passive consent protocol approved for use with the Maryland YRBS/YTS by the MDH Institutional Review Board (IRB):  
[https://phpa.health.maryland.gov/ohpetup/SiteAssets/Pages/YTRBS/YRBS\\_YTS%20Permission%20form\\_2018\\_7.16.18.pdf](https://phpa.health.maryland.gov/ohpetup/SiteAssets/Pages/YTRBS/YRBS_YTS%20Permission%20form_2018_7.16.18.pdf).

Maryland's requirements with respect to passive parental consent are set forth in the Code of Maryland, Education Article, Title 7 – Public Schools, Subtitle 4 – Health and Safety of Students, at Section 7-420 –Administration of the Centers for Disease Control System Survey (<https://codes.findlaw.com/md/education/md-code-educ-sect-7-420.html>).

There are two (2) opportunities for a student's parent or legal guardian to decline permission to take the Maryland YRBS/YTS: (1) A parental opt out form provided by the school accompanies the Emergency Contact Forms sent to all students at the beginning of the school year at the school-level, and (2) Parental opt out forms sent by the Contractor, only to students in the randomly selected classrooms who will be taking the survey. While the Contractor shall only be responsible for distributing opt out forms to students in the randomly selected classrooms, the Contractor shall work with the District Coordinators to monitor the distribution and return of parental consent materials by the schools.

The Contractor shall track the distribution and return of opt out forms on the school-level and classroom-level to ensure that no student who has an opt out form returned at either level takes the survey. Failure to distribute parental consent materials at either the school-level or classroom-level shall immediately be brought to the attention of the School-Level POC, the District Coordinator and the Contract Monitor in an attempt to ensure such materials are in fact distributed. All selected classrooms in Maryland are required by law to participate in the survey process, and this includes the distribution of parental consent materials. School staff may not discourage or prevent student participation in the survey. Only parents and the students themselves may opt out of the survey process. The Contractor shall be responsible for translating parental opt out packets (only those sent by the Contractor, not those sent by the schools) to Spanish, French and/or other languages, should it be determined necessary by the Contract Monitor.

- 2.3.1.6 **Format and Print Survey Questionnaire Booklets.** The Maryland YRBS/YTS high school survey instrument may not exceed 99 questions in length with a maximum of eight (8) response options per question. The Maryland YRBS/YTS middle school survey instrument may not exceed 89 questions in length with a maximum of eight (8) response options per question. The Contractor shall be provided final drafts of both the middle school and high school survey instruments (in PDF format) as reviewed and approved by the CDC [anticipated to be no later than the first week in September of each Survey Cycle (2020, 2022, and 2024)]. The Contractor shall print enough booklets for survey administration and makeup survey administration. The Contractor shall estimate the quantity of survey booklets to print and have a plan for printing additional quantities as needed. Survey booklets may be reused during survey administration; however, the Contractor and its subcontractor(s) must review the survey booklets after each use to ensure they look brand new, e.g. free of marks, notes, and tears. The Contractor and/or its Subcontractors shall provide students with clean copies of survey booklets during survey administration.

- 2.3.1.7 **Designate and Screen Maryland YRBS/YTS Data Collectors.** Due to the assigned work in school settings, any person employed by the Contractor, or with whom the Contractor has contracted either directly or indirectly through a subcontractor to administer the survey, shall be pre-screened by the Contractor to ensure that none appear in the: (1) Maryland Sex Offender Registry maintained by the Maryland Department of Public Safety and Correctional Services at <http://www.dpscs.state.md.us/sorSearch/> or (2) the National Sex Offender Public Registry maintained by the United States Department of Justice at <https://www.nsopw.gov/en/>. The Contractor shall also complete all necessary background checks as outlined in Section 3.7.2.

The Contractor shall certify by written letter to the Contract Monitor prior to training the Data Collectors that the required screenings were conducted and that no Data Collectors conducting the Maryland YRBS/YTS appear on these listings. This letter shall include an attachment listing all persons screened and the Contractor's findings regarding each person listed. If subsequent to the transmittal of the certification letter required by this section, additional persons are designated or contracted with to administer the survey, such persons shall be screened in the same manner and a certification letter shall be transmitted to the Contract Monitor prior to such person or persons entering a school and administering the survey.

- 2.3.1.8 **Train Maryland YRBS/YTS Data Collectors.** The Data Collectors employed by the Contractor shall be representative of the jurisdiction where they will administer the survey. Prior to commencement of survey administration, the Contractor shall provide training to all personnel who administer the Maryland YRBS/YTS to include, but not limited to the approved CDC guidelines they are to follow, general survey administration, and the requirements for assembling and packaging the data collected. The Contractor shall also ensure its Data Collectors have completed ethical research training that complies with the U.S. Department of Health and Human Services (HHS) Federal Regulation 45 CFR 46 regarding human subject research, such as "Protecting Human Research Participants (PHRP)" online training: <https://phrptraining.com/#/>. In advance of conducting any training, the Contractor shall provide the Contract Monitor with a complete copy of the relevant protocols and its training materials and handouts.

A copy of proposed training materials (including PowerPoint presentations, hand-outs, manuals, etc.) shall be provided to the Contract Monitor for review, comment, and approval at least 10 Business Days prior to the commencement of training. The Contract Monitor will formalize acceptance of the proposed training in writing. The Contractor shall provide on-site access for Department staff to observe and participate in all trainings. Upon successful completion of the Data Collector trainings, the Contractor shall submit to the Contract Monitor within 10 days, (1) copy of the invitation email, (2) final and approved presentation (e.g. PowerPoint slides), (3) list of attendees and agenda, (4) sign-in sheets, (5) certification of ethical research training for all attendees, and (6) training and feedback evaluation summaries.

- 2.3.1.9 **Accommodation of School Needs in Scheduling and Survey Administration.** In Maryland, all public schools and classrooms selected to participate in the survey are required to participate. Nonetheless, classroom-, school-, and district-specific issues may arise. The Contractor shall promptly notify the Contract Monitor and MSDE personnel of all such issues so that they may facilitate a prompt resolution.

While all selected schools and all selected classrooms are required to participate in the survey process, to alleviate any burden placed on schools and classrooms, the Contractor

shall at all times seek to accommodate the needs of individual selected schools as communicated to them by the designated School-Level POC. Accommodation may include, but is not limited to, scheduling survey administration on a date and time most convenient to the school (but still within the established survey period) and administering the survey to multiple selected classes in a single larger room (ex. Cafeteria) rather than in individual classrooms. Accommodation may not include changing classroom selection or any other accommodation that is not consistent with CDC guidelines and protocols.

Schools should propose an alternate activity for students whose parents have declined their participation in the survey process and students who elect themselves not to participate. The Contractor shall ensure these students should not be given an appealing or beneficial alternative activity or directed to engage in any activity that suggests punishment or disapproval for either a parental or student decision not to participate in the survey. If after discussion with the School-Level POC the Contractor remains concerned about the proposed alternative activity, the Data Collector or the Contractor shall contact the District Coordinator and notify the Contract Monitor and MSDE of the issue.

- 2.3.1.10 **Ensure Confidentiality.** The Contractor and its subcontractors shall ensure and document that respondent identification and survey content are kept confidential. The Contractor shall create a confidentiality agreement form to ensure data protection and to preclude data disclosure. The Contractor and all who administer the Maryland YRBS/YTS shall sign the confidentiality agreement before beginning survey administration. The Contractor shall maintain all original confidentiality forms in its files for at least five (5) years after survey administration ends and permits Departmental inspection or audit of such files. The Contractor shall provide written confirmation to the Contract Monitor that all confidentiality agreements have been signed and collected.

## 2.3.2 Maryland YRBS/YTS Survey Administration

- 2.3.2.1 **Assemble Survey Materials.** The Data Collector shall be responsible for bringing into each assigned school an ample quantity of survey materials for each student selected to take the survey. Survey materials for each selected classroom shall include, but are not limited to, survey questionnaire booklets, answer sheets, sharpened #2 pencils with erasers, teacher scripts, teacher and principal instruction sheets.
- 2.3.2.2 **Supervision and Accountability of Survey Administration.** The Contractor shall establish a system for supervising Data Collectors. The Contractor shall ensure quality control regarding all aspects of the data collection process.

**A. Provide Contact Information for Staff Supervising Data Collectors.** The Contractor shall designate supervisory staff who shall be accountable for the Data Collectors, data quality, and ensuring collected data is kept confidential. The Contractor shall provide the Contract Monitor with sufficient contact information to permit telephonic contact with all supervisory staff during active administration of the survey.

**B. Provide Survey Administration Schedules.** Beginning 15 calendar days prior to the commencement of survey administration, provide the Contract Monitor by e-mail with a comprehensive schedule of upcoming survey administration, by jurisdiction and updated schedules, by noon (12 PM) each Monday thereafter until all selected schools have completed survey administration.

For each school scheduled, the school name, School-Level POC, a telephone number/e-mail for that POC shall be provided, and whether the administration will take place in individual classrooms or in an aggregated setting. A final schedule document showing all dates/schools surveyed shall be shared with the Contract Monitor within 10 Business Days of the completion of all survey administration.

**C. Provide Weekly School Completion Reports.** Beginning on the first Monday after commencement of administration of the survey and weekly thereafter, deliver to the Contract Monitor by noon (12 PM) on Monday, a report of the cumulative number of schools in which survey administration has been completed (as of the close of the school day on the previous Friday), by county and Baltimore City, separately for middle schools and high schools. The Contractor shall use the official tracking form provided by the CDC Data Agency, which is designed to assist the Contractor with monitoring survey progress and ensuring that classes are sampled correctly. The tracking form is pre-filled by the CDC Data Agency with all the selected schools by jurisdiction with their projected enrollment numbers. The tracking form calculates overall response rates as classes are surveyed and the form is filled out. The Contractor shall communicate non-response from selected schools to the Department in the weekly school completion reports. The weekly school completion reports shall have the response rates for each school in addition to the cumulative number of schools where survey administration was completed. These weekly school completion reports should serve as an alert system for a jurisdiction's participation rate that is less than 70%. If the response rate for the jurisdiction falls below 70%, the Contractor is responsible for conducting make-up survey administrations in schools of concern with the goal of maximizing student participation rates.

**D. Conduct Validation Calls.** The Contractor shall conduct weekly validation calls on 10% of the schools scheduled for survey administration each week. The schools selected for validation shall be representative of the State. The Contractor shall inform the Contract Monitor by noon (12 PM) on Monday, which 10% of scheduled schools will be called for validation each week of survey administration. The Contractor shall call the School-Level POC for each validation within 48 hours following survey administration at the selected school. Topics during the validation call shall include but are not limited to: the work ethic of the assigned Data Collector(s), challenges, highlights, and suggestions. All validation questions will be agreed on by the Contract Monitor and Contractor. The Contractor shall submit documentation on the validation calls by noon (12 PM) on Monday with the weekly school completion reports mentioned in Section 2.3.2.2 (C). The Contract Monitor will conduct validation calls for schools not included in the 10% contacted by the Contractor.

**E. Notify Department of Any Concerns Raised About Survey Administration.** Promptly notify the Contract Monitor of concerns and issues raised by school personnel, parents, students or others regarding administration of the survey. Provide persons with such concerns the contact information for the Contractor and Contract Monitor. For the purposes of this provision, "promptly" means same day notification.

**F. Adhere to Timelines.** Meet the established timeline and schedule for administration of the Maryland YRBS/YTS in Maryland schools. Should anticipated timeline adjustments become necessary, the Contractor and the Contract Monitor shall agree in writing to any changes.

- 2.3.2.3 **Data Collection.** Administration of the Maryland YRBS/YTS is anticipated to take place for a three to four-month period between September and December of each Survey Cycle (2020, 2022, and 2024). No person employed by the Contractor and/or its Subcontractor(s) may administer the survey in any school in which they are now or were formerly employed.

The person administering the survey shall read the instructions script exactly as written by CDC and shall stress to students that the survey is confidential and anonymous. Therefore, they are not to write anything on their answer sheets other than their responses to the survey instrument, no names or other identifying information is permitted. Upon completion of survey administration, the Data Collector(s) shall update the Contractor with the student response rates from each school by 5 PM of the same day.

- 2.3.2.4 **Survey Administration in an Aggregated Setting.** If the survey is to be administered in a school in an aggregated classroom environment (gyms, cafeterias, etc.), the Data Collector(s) shall be responsible for maintaining the integrity of each individual classroom sample (students sit together as a class) and reassembly of classroom packets at the conclusion of survey administration in that aggregate setting. The Contractor shall provide enough trained Data Collector(s) for each selected classroom or aggregated facility to ensure the integrity of survey administration, the confidentiality and anonymity of student responses, data quality, and orderly student behavior during administration. One or more teachers from the selected school should be present for the sole purpose of maintaining orderly student behavior during survey administration. If teachers request to hand out the survey materials, the Data Collector(s) shall monitor and collect student responses from each teacher individually.

- 2.3.2.5 **Make-Up Survey Administration.** The Contractor shall conduct make-up survey administrations to ensure that students who were unable to participate or were absent on the survey administration date have a chance to participate. The Contractor shall print and purchase enough survey materials for make-up survey administrations (as outlined in section 2.3.2.1). Make-up survey administration shall be conducted in a way that protects student privacy. Based on CDC guidelines, at least five (5) students must be present in a classroom on the make-up date for the Contractor to proceed. All completed answer sheets from the make-up survey administration date should be combined with the rest of the answer sheets from the student's original class.

The Contractor shall actively monitor classroom-level and school-level response rates. Make-up survey administration must be conducted when: (1) at least half of the students in a classroom are absent and/or (2) the participation rate in a school drops below 70%. There are two (2) options when doing make-up survey administration: (1) the Data Collector leaves survey materials with School-Level POCs for absent students on the original date of survey administration and picks up those materials within three (3) business days, or (2) the Data Collector returns to the school to administer the make-up surveys to students who were absent on the original survey date. The Contractor and Contract Monitor will decide the best option for make-up survey administration on a case-by-case basis.

- 2.3.2.6 **Systematic Errors.** In the event that a systematic error is discovered in the sampling, questionnaires, Data Collector training, data collection, quality control, data processing, data analysis, or reporting, the Contractor shall immediately notify the Contract Monitor of the error, correct the error within five (5) calendar days of notification at no cost to the Department, and provide written documentation to the Contract Monitor of the occurrence and corrective action taken. If the Contract Monitor discovers a deficiency in the delivery of



any services and deliverables required by this Contract, that deficiency shall be corrected to the Contract Monitor's satisfaction, at no cost to the Department, within five (5) calendar days of notification.

### **2.3.3 Maryland YRBS/YTS Data Packaging and Post-Survey Administration Tasks**

- 2.3.3.1 **Assembly of Classroom Packets.** Upon completion of survey administration in a selected school, the Data Collector shall assemble classroom packets that contain all materials necessary for analyzing survey data results for each individual selected classroom according to CDC methods and guidelines (e.g., completed answer sheets, classroom-level sample information forms, etc.).
- 2.3.3.2 **Assembly of School Packets.** Upon completion of assembly of classroom packets, the Data Collector shall assemble a school packet that contains all the classroom packets and materials necessary for analyzing survey data results for the school in accordance with CDC survey methods and guidance. The Data Collector shall ship completed school packets to the Contractor within 48 hours of completing survey administration within a selected school using a traceable mailing method. If make-up survey administration is required in a school, the Contractor and the Data Collector shall determine the best means of securely storing classroom packets until survey administration is complete.
- 2.3.3.3 **Review School Packets.** Upon receipt of the school packets from the Data Collector, the Contractor shall review the submitted answer sheets for data quality and utilize CDC protocols for replacing any answer sheets that are not able to be scanned. The Contractor must have a process to maintain data integrity of the school packets.
- 2.3.3.4 **Assembly of Jurisdiction Packets.** Upon receipt and review of all answer sheets within the school packets, the Contractor shall assemble jurisdiction packets that contain all school packets from the relevant jurisdiction.
- 2.3.3.5 **Transmittal of Student Responses to CDC Data Agency.** The Contractor shall deliver all original completed student responses in the jurisdiction packets directly to the CDC Data Agency in accordance with CDC guidelines and request in writing (with a copy to the Contract Monitor) the return of the jurisdiction packets after being scanned. The Contractor shall deliver all student responses to the CDC Data Agency by the end of January following survey administration (2021, 2023, and 2025). Any updates requested by the CDC Data Agency shall be the responsibility of the Contractor. Upon return of the jurisdiction packets by the CDC Data Agency, the Contractor shall retain the packets in secure storage for a period of at least 5 years from receipt from CDC Data Agency, ensuring that they are accessible to the Department. The Contractor shall provide to the Contract Monitor the procedure for maintaining secure storage of the packets in the work plan submitted for each survey cycle.
- 2.3.3.6 **Deliver Maryland YRBS/YTS Post-Survey Administration Report.** Deliver to the Contract Monitor a draft report detailing all aspects of survey administration no later than 30 days after the conclusion of survey administration for each Survey Cycle. This report shall include, but is not limited to, the final schedule when schools were surveyed, challenges encountered and how they were resolved, concerns raised and communicated to the Contractor and/or its Data Collectors, recommendations for the next Survey Cycle, and the total number of participating students, by jurisdiction, school type, and school as compared to the number eligible to participate and present on the date of survey administration. The



Contract Monitor will review all reports for acceptability and may request edits and further information, as needed. The Contractor shall deliver the final report to the Contract Monitor no later than 10 days after receiving comments from the Contract Monitor.

## **2.3.4 Meetings**

- 2.3.4.1 **Conduct Kick-Off Meeting.** The Contractor shall schedule and hold a Kick-Off meeting at MDH headquarters located at 201 W. Preston Street, Baltimore, MD 21201 within 10 Business Days of the Notice to Proceed (NTP) date. Contractor and subcontractor Key Personnel, CTPC and MSDE staff shall be in attendance. The Contractor shall submit meeting notes and summary to the Contract Monitor within two (2) Business Days. A final Work Plan shall be submitted to the Contract Monitor no later than 30 days after the Kick-Off meeting. See **Section 3.1** for more details.
- 2.3.4.2 **Implement and Attend Required Meetings.** Participate in monthly meetings in the form of conference calls with the Contract Monitor and other CTPC and MSDE staff. Participate in face-to-face meetings at least once every quarter. The meetings shall include, but are not limited to: Contract progress, survey administration planning, next steps, survey administration debrief, etc. The Contractor shall submit meeting notes and summary to the Contract Monitor within two (2) Business Days.
- 2.3.4.3 **Conduct Bi-weekly Calls.** During survey administration (September- December of each Survey Cycle 2020, 2022, 2024), the Contractor shall host bi-weekly conference calls with the Contract Monitor and other CTPC staff to review the survey progress. The Contractor shall submit call notes and summary to the Contract Monitor within two (2) Business Days.

## **2.3.5 Additional Responsibilities**

**Development and Design of Data Materials.** The Contractor shall disseminate Maryland YRBS/YTS findings to school systems and other stakeholders. The Contractor shall develop and design personalized State-level and jurisdiction-level materials such as factsheets, snapshots, and/or infographics. The Contractor shall not be responsible for data analysis. Upon award, CTPC will provide the Contractor with the MDH style and branding guide to assist with any design work. The Contractor shall provide translation services for all developed materials in Spanish, French and/or other languages, if determined necessary by the Contract Monitor. The Contractor is responsible for printing enough copies of the State-level and jurisdiction-level materials for local school systems and other stakeholders as needed. The Contract Monitor will review all materials produced for acceptability and may request edits and further information, as needed. Approval may also be required by higher governmental authorities; final edits required by this review process will be the responsibility of the Contractor.

Additionally, all data materials shall be packaged and sent in both high-resolution PDF format and their original file formats (i.e., InDesign, Photoshop, Illustrator, etc.). The Contractor shall submit data materials that can be edited. The Contractor shall provide to the Contract Monitor a summary document outlining all specs (i.e., colors, fonts, etc.) used in the designs, so the Department may use the data materials in the future at no additional costs. Final products and its component parts must be available for the perpetual use at the discretion of the Department and its designees for future data materials at no additional cost and with no limits on times or formats. For any fonts, stock photo and artwork that are purchased, the proof of buy-out, extended license agreements, and other relevant documentation and details must be provided to the Contract Monitor.

- 2.3.5.1 **Monthly Reports.** The Contractor shall submit monthly reports to be submitted with monthly invoices providing a summary of deliverables completed. Reports shall be submitted no later than 15 calendar days of the month for the month prior.
- 2.3.5.2 **Administrative Costs.** The Contractor shall ensure that no more than seven (7) percent of Contract funds are spent on administrative expenses, in accordance with Health-General §13-1014, which states: “A county that receives funds under a Local Public Health Tobacco Grant, a person who receives funds under a Local Public Health Tobacco Grant, and any other person who receives funds under any component of the program may not use more than seven (7) percent of the funds to cover administrative costs.” The definition of administrative costs is as follows: “Administrative costs” in the Cigarette Restitution Fund are defined as costs for accounting and auditing services, financial reporting, procurement, personnel and payroll administration, and building services.” Because the Contractor is receiving Cigarette Restitution Funds, it shall not use more than seven (7) percent of Contract funds to cover administrative costs. The Contractor shall separately account for administrative costs in order to ensure that the seven (7) percent limit is adhered to. Indirect costs are included as a component of administrative costs. Indirect costs are defined as administrative and operational costs shared across programs, incurred for multiple or common objectives, which cannot be identified as direct costs without efforts disproportionate to identifying those costs.

## **2.3.6 Contractor-Supplied Hardware, Software, and Materials**

- A. By responding to this RFP and accepting a Contract award, the Offeror specifically agrees that for any software, hardware or hosting service that it proposes, the State will have the right to purchase such item(s) from another source, instead of from the selected Offeror.
- B. The State shall be permitted limited user-specific application configuration settings.
- C. The Contractor is responsible for the acquisition and operation of all hardware, software and network support related to the services being provided and shall keep all software current.
- D. All upgrades and regulatory updates shall be provided at no additional cost.
- E. The State requires that the Offeror price individual software modules separately.
- F. The State also requires that the Offeror provide fully functional, generally available software and multiple-user licenses for purchase as needed throughout the life of the Contract.
- G. The Offeror shall install and provide all documentation for the software furnished under the Contract.

## **2.4 Deliverables**

### **2.4.1 Deliverable Submission**

- A. For every deliverable, the Contractor shall request the Contract Monitor confirm receipt of that deliverable by sending an e-mail identifying the deliverable name and date of receipt.
- B. Unless specified otherwise, written deliverables shall be compatible with Microsoft Office within two (2) versions of the current version. At the Contract Monitor’s discretion, the Contract Monitor may request a hard copy of a written deliverable.
- C. A standard deliverable review cycle will be elaborated and agreed-upon between the State and the Contractor. This review process is entered into when the Contractor completes a deliverable.

- D. For any written deliverable, the Contract Monitor may request a draft version of the deliverable, to comply with the minimum deliverable quality criteria listed in **Section 2.4.3 Minimum Deliverable Quality**. Drafts of each final deliverable, except status reports, are required at least two weeks in advance of when the final deliverables are due (with the exception of deliverables due at the beginning of the project where this lead time is not possible, or where draft delivery date is explicitly specified). Draft versions of a deliverable shall comply with the minimum deliverable quality criteria listed in **Section 2.4.3 Minimum Deliverable Quality**.

#### **2.4.2 Deliverable Acceptance**

- A. A final deliverable shall satisfy the scope and requirements of this RFP for that deliverable, including the quality and acceptance criteria for a final deliverable as defined in **Section 2.4.4 Deliverable Descriptions/Acceptance Criteria**.
- B. The Contract Monitor will review a final deliverable to determine compliance with the acceptance criteria as defined for that deliverable. The Contract Monitor is responsible for coordinating comments and input from various team members and stakeholders. The Contract Monitor is responsible for providing clear guidance and direction to the Contractor in the event of divergent feedback from various team members.
- C. In the event of rejection, the Contract Monitor will formally communicate in writing any deliverable deficiencies or non-conformities to the Contractor, describing in those deficiencies what shall be corrected prior to acceptance of the deliverable in sufficient detail for the Contractor to address the deficiencies. The Contractor shall correct deficiencies and resubmit the corrected deliverable for acceptance within the agreed-upon time period for correction.

#### **2.4.3 Minimum Deliverable Quality**

The Contractor shall subject each deliverable to its internal quality-control process prior to submitting the deliverable to the State.

Each deliverable shall meet the following minimum acceptance criteria:

- A. Be presented in a format appropriate for the subject matter and depth of discussion.
- B. Be organized in a manner that presents a logical flow of the deliverable's content.
- C. Represent factual and accurate information and data reasonably expected to have been known at the time of submittal.
- D. In each section of the deliverable, include only information relevant to that section of the deliverable.
- E. Contain content and presentation consistent with industry best practices in terms of deliverable completeness, clarity, and quality.
- F. Meets the acceptance criteria applicable to that deliverable, including any State policies, functional or non-functional requirements, or industry standards.
- G. Contains no structural errors such as poor grammar, misspellings or incorrect punctuation.
- H. Must contain the date, author, and page numbers. When applicable for a deliverable, a revision table must be included.
- I. A draft written deliverable may contain limited structural errors such as incorrect punctuation and shall represent a significant level of completeness toward the associated

final written deliverable. The draft written deliverable shall otherwise comply with minimum deliverable quality criteria above.

#### 2.4.4 Deliverable Descriptions/Acceptance Criteria

In addition to the items identified in the table below, the Contractor may suggest other subtasks, artifacts, or deliverables to improve the quality and success of the assigned tasks.

**Deliverables Summary Table\***

<b>ID #</b>	<b>Deliverable Description</b>	<b>Acceptance Criteria</b>	<b>Due Date / Frequency</b>
1	Kick-Off Meeting and Draft Work Plan	Successful completion of a Kick-Off meeting signaling the start of the Contract. (Section 2.3.4.1 and Section 3.1)	Meeting within 10 Business Days after 'Notice to Proceed' of Survey Cycle Year 2020 only  Review Draft Work Plan for Survey Cycle 1 at Kick-Off Meeting
2	Draft Work Plans	Draft Work Plan detailing goals and the scope of the Survey Cycle.	Draft Work Plan due to Contract Monitor by September 2021 and 2023
3	Planning Meetings for Survey Cycles	Successful completion of planning meeting for upcoming survey cycle. (Section 2.3.4.2)	Planning Meeting no later than October 2021, 2023, and 2025
4	Final Work Plans	Final Work Plan detailing all tasks and timelines required to meet survey administration goals and objectives approved by the Contract Monitor.	Final Work Plan due by January 10 <sup>th</sup> of 2022 and 2024  Final work plan for Survey Cycle 1 due within 30 days after Kick-Off meeting
5	Complete training materials for District Coordinators, School-Level POCs and classroom teachers	Contract Monitor will review and approve training materials for acceptance. (Section 2.3.1.2 (B))	Final materials by April 2020, 2022, 2024, and 2026
6	Host District Coordinator Survey Trainings	Successful completion of at least three (3) District Coordinator Training Sessions. (Section 2.3.1.2 (A))	All District Coordinator Trainings completed by the end of August 2020, 2022, and 2024

7	Host District Coordinator Interim Trainings	Successful completion of at least one (1) District Coordinator Interim Training Sessions. (Section 2.3.1.2 (C))	Spring 2021, 2023, and 2025
8	Data Collector Designation, Screening and Training	Successful designation, screening, and training of Data Collectors. (Sections 2.3.1.7 and 2.3.1.8)	By the first week in September 2020, 2022, and 2024
9	Provide CTPC and MSDE with comprehensive list of survey administration schedules of selected schools	Comprehensive list with sampled schools and classrooms with proposed dates for survey administration and names for each assigned Maryland YRBS/YTS School-Level POC. (Section 2.3.2.2)	By the end of September 2020, 2022, and 2024
10	Provide the Contract Monitor with Weekly School Completion Reports	The weekly reports should include the cumulative number of schools in which survey administration has been completed with the response rate for each school. (Section 2.3.2.2)	Every Monday at noon (12PM) following commencement of survey administration until all schools have been surveyed.
11	Completion of data collection	All schools and classrooms have been surveyed including any make-ups, with an overall response rate of at least 70% in each school district. (Sections 2.3.2.3 – 2.3.2.6)	By the end of December 2020, 2022, and 2024
12	Collected data successfully transmitted to CDC Data Agency	The Contractor informs the Contract Monitor of transmittance of all collected data and provides a copy of the letter. (Section 2.3.3.5)	By the end of January 2021, 2023, and 2025

13	Maryland YRBS/YTS Administration Report	Contractor submits draft report on survey administration for review and approval.  Contractor submits final report within 10 days following comments from the Contract Monitor. (Section 2.3.3.6)	Draft within 30 days of completion of survey administration (anticipated before the end of January).  Final within 10 days following comments from the Contract Monitor.
14	Complete State, jurisdiction-level data materials, and other materials as discussed	Contract Monitor will review and approve materials and dissemination plan for acceptance. (Section 2.3.5.1)	Drafts by the end of March of 2020, 2022, 2024, and 2026  Final by the end of May of 2022, 2024, and 2026
15	Quarterly in-person meetings	Meetings completed with meeting notes provided to the Contract Monitor within two (2) Business Days. (Section 2.3.4.2)	Quarterly (by calendar year)
16	Monthly conference calls; Bi weekly calls (during survey administration)	Calls completed with meeting notes provided to the Contract Monitor within two (2) Business Days. (Section 2.3.4.2, 2.3.4.3)	Monthly/Bi-Weekly
17	Monthly Reports	Monthly reports summarizing deliverables completed submitted to the Contract Monitor no later than the 15 <sup>th</sup> of the month for the month prior.	Monthly

\*The deliverables summary table may not list every contractually-required deliverable. Offerors and Contractors should read the RFP thoroughly for all Contract requirements and deliverables.

## 2.5 Service Level Agreement (SLA)

THIS SECTION IS INAPPLICABLE TO THIS RFP.

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## **3 Contractor Requirements: General**

### **3.1 Contract Initiation Requirements**

- A. Contractor shall schedule and hold a Kick Off meeting within 10 Business Days of the Notice to Proceed (NTP) date. At the Kick Off, the Contractor shall furnish a Work Plan for CTPC review and approval. The Contractor shall hold the Kick Off meeting at the Baltimore headquarters located at 201 W. Preston Street, Baltimore, MD 21201. Topics to be discussed at the Kick-Off meeting will include but are not be limited to the following: Parental consent process in each district, the joint MSDE and MDH letter that will announce the survey to each district-level superintendent, how to maximize student participations rates, how to access CDC technical support, draft Work Plan for the upcoming Survey Cycle, etc. A Final Work Plan will be due no later than 30 days after the Kick-Off meeting.

### **3.2 End of Contract Transition**

- 3.2.1 The Contractor shall provide transition assistance as requested by the State to facilitate the orderly transfer of services to the State or a follow-on contractor, for a period up to 90 days prior to Contract end date, or the termination thereof. Such transition efforts shall consist, not by way of limitation, of:
  - A. Provide additional services and support as requested to successfully complete the transition;
  - B. Maintain the services called for by the Contract at the required level of proficiency;
  - C. Provide updated System Documentation (see Appendix 1), as appropriate; and
  - D. Provide current operating procedures (as appropriate).
- 3.2.2 The Contractor shall work toward a prompt and timely transition, proceeding in accordance with the directions of the Contract Monitor. The Contract Monitor may provide the Contractor with additional instructions to meet specific transition requirements prior to the end of the Contract.
- 3.2.3 The Contractor shall ensure that all necessary knowledge and materials for the tasks completed are transferred to the custody of State personnel or a third party, as directed by the Contract Monitor.
- 3.2.4 The Contractor shall support end-of-Contract transition efforts with technical and project support to include but not be limited to:
  - A. The Contractor shall provide a draft Transition-Out Plan 120 Business Days in advance of Contract end date.
  - B. The Transition-Out Plan shall address at a minimum the following areas:
    - 1) Any staffing concerns/issues related to the closeout of the Contract;
    - 2) Communications and reporting process between the Contractor, the Department and the Contract Monitor;
    - 3) Security and system access review and closeout;
    - 4) Any hardware/software inventory or licensing including transfer of any point of contact for required software licenses to the Department or a designee;
    - 5) Any final training/orientation of Department staff;
    - 6) Connectivity services provided, activities and approximate timelines required for Transition-Out;



- 7) Knowledge transfer, to include:
  - a) A working knowledge of the current system environments as well as the general business practices of the Department;
  - b) Review with the Department the procedures and practices that support the business process and current system environments;
  - c) Working knowledge of all technical and functional matters associated with the Solution, its architecture, data file structure, interfaces, any batch programs, and any hardware or software tools utilized in the performance of the Contract;
  - d) Documentation that lists and describes all hardware and software tools utilized in the performance of the Contract;
  - e) A working knowledge of various utilities and corollary software products used in support and operation of the solution;
- 8) Plans to complete tasks and any unfinished work items (including open change requests, and known bug/issues); and
- 9) Any risk factors with the timing and the Transition-Out schedule and transition process. The Contractor shall document any risk factors and suggested solutions.
- C. The Contractor shall ensure all documentation and data including, but not limited to, System Documentation and current operating procedures, is current and complete with a hard and soft copy in a format prescribed by the Contract Monitor.
- D. The Contractor shall provide copies of any current daily and weekly back-ups to the Department or a third party as directed by the Contract Monitor as of the final date of transition, but no later than the final date of the Contract.
- E. Access to any data or configurations of the furnished product and services shall be available after the expiration of the Contract as described in **Section 3.2.5**.

### **3.2.5 Return and Maintenance of State Data**

- A. Upon termination or the expiration of the Contract Term, the Contractor shall: (a) return to the State all State data in either the form it was provided to the Contractor or in a mutually agreed format along with the schema necessary to read such data; (b) preserve, maintain, and protect all State data until the earlier of a direction by the State to delete such data or the expiration of 90 days (“the retention period”) from the date of termination or expiration of the Contract term; (c) after the retention period, the Contractor shall securely dispose of and permanently delete all State data in all of its forms, such as disk, CD/DVD, backup tape and paper such that it is not recoverable, according to National Institute of Standards and Technology (NIST)-approved methods with certificates of destruction to be provided to the State; and (d) prepare an accurate accounting from which the State may reconcile all outstanding accounts. The final monthly invoice for the services provided hereunder shall include all charges for the 90-day data retention period.
- B. During any period of service suspension, the Contractor shall maintain all State data in its then existing form, unless otherwise directed in writing by the Contract Monitor.
- C. In addition to the foregoing, the State shall be entitled to any post-termination/expiration assistance generally made available by Contractor with respect to the services.

### **3.3 Invoicing**

#### **3.3.1 General**

- A. The Contractor shall mail and e-mail the original of each invoice and signed authorization to invoice to the Contract Monitor at e-mail address: [nikardi.jallah@maryland.gov](mailto:nikardi.jallah@maryland.gov)
- Invoices are to be mailed to:
- Nikardi Jallah, MPH  
Center for Tobacco Prevention and Control  
Maryland Department of Health  
201 West Preston Street, 3<sup>rd</sup> Floor, Baltimore, MD 21201
- B. All invoices for services shall be verified by the Contractor as accurate at the time of submission.
- C. An invoice not satisfying the requirements of a Proper Invoice (as defined at COMAR 21.06.09.01 and .02) cannot be processed for payment. To be considered a Proper Invoice, invoices must include the following information, without error:
- 1) Contractor name and address;
  - 2) Remittance address;
  - 3) Federal taxpayer identification (FEIN) number, social security number, as appropriate;
  - 4) Invoice period (i.e. time period during which services covered by invoice were performed);
  - 5) Invoice date;
  - 6) Invoice number;
  - 7) State assigned Contract number;
  - 8) State assigned (Blanket) Purchase Order number(s);
  - 9) Goods or services provided;
  - 10) Amount due; and
  - 11) Any additional documentation required by regulation or the Contract.
- D. The Department reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the Department with all required deliverables within the time frame specified in the Contract or otherwise breaches the terms and conditions of the Contract until such time as the Contractor brings itself into full compliance with the Contract.
- E. Any action on the part of the Department, or dispute of action by the Contractor, shall be in accordance with the provisions of Md. Code Ann., State Finance and Procurement Article §§ 15-215 through 15-223 and with COMAR 21.10.04.
- F. The State is generally exempt from federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. The Contractor; however, is not exempt from such sales and use taxes and may be liable for the same.
- G. Invoices for final payment shall be clearly marked as “FINAL” and submitted when all work requirements have been completed and no further charges are to be incurred under the

Contract. In no event shall any invoice be submitted later than 60 calendar days from the Contract termination date.

### **3.3.2 Invoice Submission Schedule**

- A. The first invoice shall be submitted upon approval of the Final Survey Cycle 1 Work Plan in an amount not to exceed \$50,000.
- B. Invoices thereafter shall be submitted monthly beginning August 2019. The Contractor shall submit monthly invoices for deliverables completed the month prior as referenced by the deliverable schedule in Section 2.4.4.
- C. All invoices must be received no later than 15 calendar days after the conclusion of the month.
- D. On each monthly invoice, the Contractor shall itemize all “administrative costs” as defined in Section 2.3.5.2 to document that its spending on “administrative costs” does not exceed seven (7) percent of each Survey Cycle price, per the requirements of Section 2.3.5.2. The Contractor shall not invoice a separate payment for “administrative costs.” However, the Contractor shall document that its spending on “administrative costs” over the course of each Survey Cycle does not exceed seven (7) percent of the Contractor’s price for that Survey Cycle by separately listing all administrative costs on each invoice. The Contractor will not be paid for any amount in excess of seven (7) percent of the actual Contract Period budget, and any amount in excess of seven (7) percent will be withheld from payment amounts to the Contractor.

### **3.3.3 Deliverable Invoicing**

- A. Payment for deliverables will only be made upon completion and acceptance of the deliverables as defined in **Section 2.4**.

### **3.3.4 For the purposes of the Contract an amount will not be deemed due and payable if:**

- A. The amount invoiced is inconsistent with the Contract;
- B. The proper invoice has not been received by the party or office specified in the Contract;
- C. The invoice or performance is in dispute or the Contractor has failed to otherwise comply with the provisions of the Contract;
- D. The item or services have not been accepted;
- E. The quantity of items delivered is less than the quantity ordered;
- F. The items or services do not meet the quality requirements of the Contract;
- G. If the Contract provides for progress payments, the proper invoice for the progress payment has not been submitted pursuant to the schedule;
- H. If the Contract provides for withholding a retainage and the invoice is for the retainage, all stipulated conditions for release of the retainage have not been met; or
- I. The Contractor has not submitted satisfactory documentation or other evidence reasonably required by the Procurement Officer or by the Contract concerning performance under the Contract and compliance with its provisions.

### **3.3.5 Travel Reimbursement**

Travel will not be reimbursed under this RFP.

### **3.4 Liquidated Damages**

#### **3.4.1 MBE Liquidated Damages**

MBE liquidated damages are identified in Attachment M.

#### **3.4.2 Liquidated Damages other than MBE**

The State and its partners utilize Maryland YRBS/YTS local- and state-level survey data to determine funding levels for local programs, program evaluation, state and federal reports, and to justify programmatic activities. Accurate survey data is imperative to support these efforts. The Contractor shall make every attempt to deliver to the CDC Data Agency complete and accurate local- and state-level survey data. The CDC provides 24 complete middle school local data sets, 24 complete high school local data sets, and two complete state-level data sets if survey data collection is completed successfully. Should the Contractor deliver incomplete survey data and/or data that falls below the CDC response rate threshold (at local- and/or state-level), liquidated damages will be applied in the amount of \$750 per month for *each* incomplete local- or state-level data set until the data set is corrected and approved by the Contract Monitor. The Contract Monitor will provide written approval to the Contractor that the corrected data was provided to the satisfaction of the State.

### **3.5 Disaster Recovery and Data**

The following requirements apply to the Contract:

#### **3.5.1 Redundancy, Data Backup and Disaster Recovery**

- A. Unless specified otherwise in the RFP, Contractor shall maintain or cause to be maintained disaster avoidance procedures designed to safeguard State data and other confidential information, Contractor's processing capability and the availability of hosted services, in each case throughout the Contract term. Any force majeure provisions of the Contract do not limit the Contractor's obligations under this provision.
- B. The Contractor shall have robust contingency and disaster recovery (DR) plans in place to ensure that the services provided under the Contract will be maintained in the event of disruption to the Contractor/Subcontractor's operations (including, but not limited to, disruption to information technology systems), however caused.
  - 1) The Contractor shall furnish a DR site.
  - 2) The DR site shall be at least 100 miles from the primary operations site and have the capacity to take over complete production volume in case the primary site becomes unresponsive.
- C. The contingency and DR plans must be designed to ensure that services under the Contract are restored after a disruption within twenty-four (24) hours from notification and a recovery point objective of one (1) hour or less prior to the outage in order to avoid unacceptable consequences due to the unavailability of services.
- D. The Contractor shall test the contingency/DR plans at least twice annually to identify any changes that need to be made to the plan(s) to ensure a minimum interruption of service. Coordination shall be made with the State to ensure limited system downtime when testing is conducted. At least one (1) annual test shall include backup media restoration and failover/fallback operations at the DR location. The Contractor shall send the Contract Monitor a notice of completion following completion of DR testing.

- E. Such contingency and DR plans shall be available for the Department to inspect and practically test at any reasonable time, and subject to regular updating, revising, and testing throughout the term of the Contract.

### **3.5.2 Data Export/Import**

- A. The Contractor shall, at no additional cost or charge to the State, in an industry standard/non-proprietary format:
  - 1) perform a full or partial import/export of State data within 24 hours of a request; or
  - 2) provide to the State the ability to import/export data at will and provide the State with any access and instructions which are needed for the State to import or export data.
- B. Any import or export shall be in a secure format per the Security Requirements.

### **3.5.3 Data Ownership and Access**

- A. Data, databases and derived data products created, collected, manipulated, or directly purchased as part of a RFP are the property of the State. The purchasing State agency is considered the custodian of the data and shall determine the use, access, distribution and other conditions based on appropriate State statutes and regulations.
  - B. Public jurisdiction user accounts and public jurisdiction data shall not be accessed, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of the Contract, including as necessary to perform the services hereunder or (4) at the State's written request.
  - C. The Contractor shall limit access to and possession of State data to only Contractor Personnel whose responsibilities reasonably require such access or possession and shall train such Contractor Personnel on the confidentiality obligations set forth herein.
  - D. At no time shall any data or processes – that either belong to or are intended for the use of the State or its officers, agents or employees – be copied, disclosed or retained by the Contractor or any party related to the Contractor for subsequent use in any transaction that does not include the State.
  - E. The Contractor shall not use any information collected in connection with the services furnished under the Contract for any purpose other than fulfilling such services.
- 3.5.4 Provisions in Sections 3.5.1 – 3.5.3 shall survive expiration or termination of the Contract. Additionally, the Contractor shall flow down the provisions of Sections 3.5.1-3.5.3 (or the substance thereof) in all subcontracts.

## **3.6 Insurance Requirements**

The Contractor shall maintain, at a minimum, the insurance coverages outlined below, or any minimum requirements established by law if higher, for the duration of the Contract, including option periods, if exercised:

- 3.6.1 The following type(s) of insurance and minimum amount(s) of coverage are required:
- A. Commercial General Liability - of \$1,000,000 combined single limit per occurrence for bodily injury, property damage, and personal and advertising injury and \$3,000,000 annual aggregate. The minimum limits required herein may be satisfied through any combination of primary and umbrella/excess liability policies.

- B. Errors and Omissions/Professional Liability - \$1,000,000 per combined single limit per claim and \$3,000,000 annual aggregate.
  - C. Crime Insurance/Employee Theft Insurance - to cover employee theft with a minimum single loss limit of \$1,000,000 per loss, and a minimum single loss retention not to exceed \$10,000. The State of Maryland and the Department should be added as a “loss payee.”
  - D. Worker’s Compensation - The Contractor shall maintain such insurance as necessary or as required under Workers’ Compensation Acts, the Longshore and Harbor Workers’ Compensation Act, and the Federal Employers’ Liability Act, to not be less than one million dollars (\$1,000,000) per occurrence (unless a state’s law requires a greater amount of coverage). Coverage must be valid in all states where work is performed.
- 3.6.2 The State shall be listed as an additional insured on the faces of the certificates associated with the coverages listed above, including umbrella policies, excluding Workers’ Compensation Insurance and professional liability.
- 3.6.3 All insurance policies shall be endorsed to include a clause requiring the insurance carrier provide the Procurement Officer, by certified mail, not less than 30 days’ advance notice of any non-renewal, cancellation, or expiration. The Contractor shall notify the Procurement Officer in writing, if policies are cancelled or not renewed within five (5) days of learning of such cancellation or nonrenewal. The Contractor shall provide evidence of replacement insurance coverage to the Procurement Officer at least 15 days prior to the expiration of the insurance policy then in effect.
- 3.6.4 Any insurance furnished as a condition of the Contract shall be issued by a company authorized to do business in the State.
- 3.6.5 The recommended awardee must provide current certificate(s) of insurance with the prescribed coverages, limits and requirements set forth in this section within five (5) Business Days from notice of recommended award. During the period of performance for multi-year contracts, the Contractor shall provide certificates of insurance annually, or as otherwise directed by the Contract Monitor.
- 3.6.6 Subcontractor Insurance
- The Contractor shall require any Subcontractor(s) to obtain and maintain comparable levels of coverage and shall provide the Contract Monitor with the same documentation as is required of the Contractor.

### **3.7 Security Requirements**

The following requirements are applicable to the Contract:

#### **3.7.1 Employee Identification**

- A. Contractor Personnel shall display his or her company ID badge in a visible location at all times while on State premises. Upon request of authorized State personnel, each Contractor Personnel shall provide additional photo identification.
- B. Contractor Personnel shall cooperate with State site requirements, including but not limited to, being prepared to be escorted at all times, and providing information for State badge issuance.
- C. Contractor shall remove any Contractor Personnel from working on the Contract where the State determines, in its sole discretion that Contractor Personnel has not adhered to the Security requirements specified herein.

- D. The State reserves the right to request that the Contractor submit proof of employment authorization of non-United States Citizens, prior to commencement of work under the Contract.

### **3.7.2 Security Clearance / Criminal Background Check**

- A. The Contractor shall obtain from each prospective employee a signed statement permitting a criminal background check. The Contractor shall secure at its own expense a Maryland State Police and/or FBI background check and shall provide the Contract Monitor with completed checks on all new employees prior to assignment. The Contractor may not assign an employee with a criminal record to work under this Contract unless prior written approval is obtained from the Contract Monitor. The Contractor shall provide certification to the Department that the Contractor has completed the required criminal background check described in this RFP for each required Contractor Personnel prior to assignment, and that the Contractor Personnel have successfully passed this check. Refer to Section 2.3.1.7 for other required screenings and background checks.
- B. Persons with a criminal record may not perform services under the Contract unless prior written approval is obtained from the Contract Monitor. The Contract Monitor reserves the right to reject any individual based upon the results of the background check. Decisions of the Contract Monitor as to acceptability of a candidate are final. The State reserves the right to refuse any individual Contractor Personnel to work on State premises, based upon certain specified criminal convictions, as specified by the State.
- C. The CJIS criminal record check of each Contractor Personnel who will work on State premises shall be reviewed by the Contractor for convictions of any of the following crimes described in the Annotated Code of Maryland, Criminal Law Article:
  - 1) §§ 6-101 through 6-104, 6-201 through 6-205, 6-409 (various crimes against property);
  - 2) any crime within Title 7, Subtitle 1 (various crimes involving theft);
  - 3) §§ 7-301 through 7-303, 7-313 through 7-317 (various crimes involving telecommunications and electronics);
  - 4) §§ 8-201 through 8-302, 8-501 through 8-523 (various crimes involving fraud);
  - 5) §§ 9-101 through 9-417, 9-601 through 9-604, 9-701 through 9-706.1 (various crimes against public administration); or
  - 6) a crime of violence as defined in CL § 14-101(a).
- D. Contractor Personnel with access to systems supporting the State or to State data who have been convicted of a felony or of a crime involving telecommunications and electronics from the above list of crimes shall not be permitted to work on State premises under the Contract; Contractor Personnel who have been convicted within the past five (5) years of a misdemeanor from the above list of crimes shall not be permitted to work on State premises.
- E. A particular on-site location covered by the Contract may require more restrictive conditions regarding the nature of prior criminal convictions that would result in Contractor Personnel not being permitted to work on those premises. Upon receipt of a location's more restrictive conditions regarding criminal convictions, the Contractor shall provide an updated certification regarding the Contractor Personnel working at or assigned to those premises.

### **3.7.3 On-Site Security Requirement(s)**

THIS SECTION IS INAPPLICABLE TO THIS RFP.

### **3.7.4 Information Technology**

The Contractor shall:

- 1) Implement administrative, physical, and technical safeguards to protect State data that are no less rigorous than accepted industry best practices for information security such as those listed below (see **Section 3.7.5**);
- 2) Ensure that all such safeguards, including the manner in which State data is collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws as well as the terms and conditions of the Contract; and
- 3) The Contractor, and Contractor Personnel, shall (i) abide by all applicable federal, State and local laws, rules and regulations concerning security of Information Systems and Information Technology and (ii) comply with and adhere to the State IT Security Policy and Standards as each may be amended or revised from time to time. Updated and revised versions of the State IT Policy and Standards are available online at: [www.doit.maryland.gov](http://www.doit.maryland.gov) – keyword: Security Policy.

### **3.8 Problem Escalation Procedure**

- 3.8.1 The Contractor must provide and maintain a Problem Escalation Procedure (PEP) for both routine and emergency situations. The PEP must state how the Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the State within appropriate timeframes.
- 3.8.2 The Contractor shall provide contact information to the Contract Monitor, as well as to other State personnel as directed should the Contract Monitor not be available.
- 3.8.3 The Contractor must provide the PEP no later than ten (10) Business Days after notice of recommended award. The PEP, including any revisions thereto, must also be provided within ten (10) Business Days after the start of each Contract year and within ten (10) Business Days after any change in circumstance which changes the PEP. The PEP shall detail how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. The PEP shall include:
  - A. The process for establishing the existence of a problem;
  - B. Names, titles, and contact information for progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;
  - C. For each individual listed in the Contractor's PEP, the maximum amount of time a problem will remain unresolved with that individual before the problem escalates to the next contact person listed in the Contractor's PEP;
  - D. Expedited escalation procedures and any circumstances that would trigger expediting them;
  - E. The method of providing feedback on resolution progress, including the frequency of feedback to be provided to the State;
  - F. Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays) and on an emergency basis; and
  - G. A process for updating and notifying the Contract Monitor of any changes to the PEP.
- 3.8.4 Nothing in this section shall be construed to limit any rights of the Contract Monitor or the State which may be allowed by the Contract or applicable law.



### **3.9 SOC 2 Type 2 Audit Report**

A SOC 2 Type 2 Report is not a Contractor requirement for this Contract.

### **3.10 Experience and Personnel**

#### **3.10.1 Preferred Offeror Experience**

The Offeror shall include information on past experience with similar projects and/or services. The Offeror shall describe how its agency can meet the requirements of this RFP. The following experience is expected and will be evaluated as part of the Technical Proposal (see the Offeror experience, capability and references evaluation factor from **Section 6.2**):

- A. At least three (3) years of experience with similar projects and/or services described in this RFP within the last five (5) years.
- B. The Offeror shall not be currently providing services to an entity that is a part of the tobacco industry, as either a manufacturer of tobacco products or a distributor thereof and shall not have provided such services to such an entity since November 1998. See Attachment P.
- C. Capacity to conduct and support a statewide and jurisdiction-level survey: (1) Hiring and training staff to collect survey data, (2) Acquiring and printing all survey materials, (3) Monitoring data collection, and (4) Securely storing confidential records for up to five years.
- D. Prior experience conducting and managing Statewide or local youth health surveys or tests, preferably experience with CDC's YRBS, YTS or similar national school-based surveys.
- E. Demonstrate cultural competency by prior work with culturally and geographically diverse populations.

#### **3.10.2 Personnel Experience**

The following experience is expected and will be evaluated as part of the Technical Proposal (see the capability of proposed resources evaluation factor from **Section 6.2**):

- A. The Contractor shall designate a Project Director and Survey Manager as Key Personnel. The Project Director shall oversee all aspects of the Maryland YRBS/YTS Contract. The Survey Manager shall oversee survey administration during each Survey Cycle.
- B. Key Personnel shall have minimum of three (3) years of professional experience with similar projects and/or services described in this RFP within the last five (5) years. The professional experience of the Key Personnel should demonstrate the ability to meet the requirements in the scope of work (Section 2.3).
- C. Key Personnel shall demonstrate their experience managing survey administration and training designated staff.

### **3.11 Substitution of Personnel**

#### **3.11.1 Continuous Performance of Key Personnel**

When Key Personnel are identified for the Contract, the following apply:

- A. Key Personnel shall be available to perform Contract requirements as of the NTP Date. Unless explicitly authorized by the Contract Monitor or specified in the Contract, Key Personnel shall be assigned to the State of Maryland as a dedicated resource.
- B. Key Personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in the Technical Proposal. Key Personnel may not be removed by the

Contractor from working under the Contract without the prior written approval of the Contract Monitor.

- C. The provisions of this section apply to Key Personnel identified in any Task Order proposal and agreement, if issued, and any Work Order Request and Work Order, if issued.

### **3.11.2 Definitions**

For the purposes of this section, the following definitions apply:

- A. **Extraordinary Personal Event** – means any of: leave under the Family Medical Leave Act; an Incapacitating injury or Incapacitating illness; or other circumstances that in the sole discretion of the State warrant an extended leave of absence, such as extended jury duty or extended military service that precludes the individual from performing his/her job duties under the Contract.
- B. **Incapacitating** – means any health circumstance that substantially impairs the ability of an individual to perform the job duties described for that individual’s position in the RFP or the Contractor’s Technical Proposal.

### **3.11.3 Contractor Personnel General Substitution Provisions**

The following provisions apply to all of the circumstances of Contractor Personnel substitution described in **Section 3.11.4**.

- A. The Contractor shall demonstrate to the Contract Monitor’s satisfaction that the proposed substitute has qualifications at least equal to those of the Contractor Personnel proposed to be replaced.
- B. The Contractor shall provide the Contract Monitor with a substitution request that shall include:
  - 1) A detailed explanation of the reason(s) for the substitution request;
  - 2) The resume of the proposed substitute signed by the substituting individual and his/her formal supervisor;
  - 3) The official resume of the current personnel for comparison purposes; and
  - 4) Evidence of any required credentials.
- C. The Contract Monitor may request additional information concerning the proposed substitution and may interview the proposed substitute personnel prior to deciding whether to approve the substitution request.
- D. The Contract Monitor will notify the Contractor in writing of: (i) the acceptance or denial, or (ii) contingent or temporary approval for a specified time limit, of the requested substitution. The Contract Monitor will not unreasonably withhold approval of a proposed Contractor Personnel replacement.

### **3.11.4 Replacement Circumstances**

- A. **Directed Personnel Replacement**
  - 1) The Contract Monitor may direct the Contractor to replace any Contractor Personnel who, in the sole discretion of the Contract Monitor, are perceived as being unqualified, non-productive, unable to fully perform the job duties, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law, Department policies, or Contract requirements. Normally, a

directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph **3.11.4.A.2**.

- 2) If deemed appropriate in the discretion of the Contract Monitor, the Contract Monitor may give written notice of any Contractor Personnel performance issues to the Contractor, describing the problem and delineating the remediation requirement(s). The Contractor shall provide a written response to the remediation requirements in a Remediation Plan within ten (10) days of the date of the notice and shall immediately implement the Remediation Plan upon written acceptance by the Contract Monitor. If the Contract Monitor rejects the Remediation Plan, the Contractor shall revise and resubmit the plan to the Contract Monitor within five (5) days, or in the timeframe set forth by the Contract Monitor in writing.
- 3) Should performance issues persist despite an approved Remediation Plan, the Contract Monitor may give written notice of the continuing performance issues and either request a new Remediation Plan within a specified time limit or direct the substitution of Contractor Personnel whose performance is at issue with a qualified substitute, including requiring the immediate removal of the Contractor Personnel at issue.
- 4) Replacement or substitution of Contractor Personnel under this section shall be in addition to, and not in lieu of, the State's remedies under the Contract or which otherwise may be available at law or in equity.
- 5) If the Contract Monitor determines to direct substitution under **3.11.4.A.1**, if at all possible, at least fifteen (15) days advance notice shall be given to the Contractor. However, if the Contract Monitor deems it necessary and, in the State's, best interests to remove the Contractor Personnel with less than fifteen (15) days' notice, the Contract Monitor may direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.
- 6) In circumstances of directed removal, the Contractor shall, in accordance with paragraph **3.11.4.A.1** of this section, provide a suitable replacement for approval within fifteen (15) days of the notification of the need for removal, or the actual removal, whichever occurs first.

#### B. Key Personnel Replacement

- 1) To replace any Key Personnel in a circumstance other than as described in **3.11.4.B**, including transfers and promotions, the Contractor shall submit a substitution request as described in **Section 3.11.3** to the Contract Monitor at least fifteen (15) days prior to the intended date of change. A substitution may not occur unless and until the Contract Monitor approves the substitution in writing.
- 2) Key Personnel Replacement Due to Sudden Vacancy
  - a) The Contractor shall replace Key Personnel whenever a sudden vacancy occurs (e.g., Extraordinary Personal Event, death, resignation, termination). A termination or resignation with thirty (30) days or more advance notice shall be treated as a replacement under **Section 3.11.4.B.1**.
  - b) Under any of the circumstances set forth in this paragraph B, the Contractor shall identify a suitable replacement and provide the same information and items required under **Section 3.11.3** within fifteen (15) days of the actual vacancy occurrence or from when the Contractor first knew or should have known that the vacancy would be occurring, whichever is earlier.

- 3) Key Personnel Replacement Due to an Indeterminate Absence
  - a) If any Key Personnel has been absent from his/her job for a period of ten (10) days and it is not known or reasonably anticipated that the individual will be returning to work within the next twenty (20) days to fully resume all job duties, before the 25th day of continuous absence, the Contractor shall identify a suitable replacement and provide the same information and items to the Contract Monitor as required under **Section 3.11.3**.
  - b) However, if this person is available to return to work and fully perform all job duties before a replacement has been authorized by the Contract Monitor the Contract Monitor may, at his/her sole discretion, authorize the original personnel to continue to work under the Contract, or authorize the replacement personnel to replace the original personnel, notwithstanding the original personnel's ability to return.

### **3.11.5 Substitution Prior to and Within 30 Days After Contract Execution**

Prior to Contract execution or within thirty (30) days after Contract execution, the Offeror may not substitute proposed Key Personnel except under the following circumstances (a) for actual full-time personnel employed directly by the Offeror: the vacancy occurs due to the sudden termination, resignation, or approved leave of absence due to an Extraordinary Personal Event, or the death of such personnel; and (b) for any temporary staff, Subcontractors or 1099 contractors: the vacancy occurs due to an Incapacitating event or the death of such personnel. To qualify for such substitution, the Offeror must demonstrate to the State's satisfaction the event necessitating substitution. Proposed substitutions shall be of equal caliber or higher, in the State's sole discretion. Proposed substitutes deemed by the State to be less qualified than the originally proposed individual may be grounds for pre-award disqualification or post-award termination.

### **3.12 Minority Business Enterprise (MBE) Reports**

If this solicitation includes an MBE Goal (see **Section 4.26**), the Contractor shall:

- A. Submit the following reports by the 10th of each month to the Contract Monitor and the Department's MBE Liaison Officer:
  - 1) A Prime Contractor Paid/Unpaid MBE Invoice Report (Attachment D-4A) listing any unpaid invoices, over 45 days old, received from any certified MBE Subcontractor, the amount of each invoice and the reason payment has not been made; and
  - 2) (If Applicable) An MBE Prime Contractor Report (Attachment D-4B) identifying an MBE prime's self-performing work to be counted towards the MBE participation goals.
- B. Include in its agreements with its certified MBE Subcontractors a requirement that those Subcontractors submit an MBE Subcontractor Paid/Unpaid Invoice Report (**Attachment D-5**) by the 10th of each month to the Contract Monitor and the Department's MBE Liaison Officer that identifies the Contract and lists all payments to the MBE Subcontractor received from the Contractor in the preceding reporting period month, as well as any outstanding invoices, and the amounts of those invoices.
- C. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority Subcontractors employed on the Contract, type of work performed by each, and actual dollar value of work performed. Subcontract agreements documenting the work performed by all

MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.

- D. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three (3) years after final completion of the Contract.
- E. Upon completion of the Contract and before final payment and release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE Subcontractors.

### **3.13 Veteran Small Business Enterprise (VSBE) Reports**

If this solicitation includes a VSBE Goal (see **Section 4.27**), the Contractor shall:

- A. Submit the following reports by the 10<sup>th</sup> of the month following the reporting period to the Contract Monitor and the Department VSBE representative:
  - 1) VSBE Participation Prime Contractor Paid/Unpaid VSBE Invoice Report (Attachment E-3) listing any unpaid invoices, over 45 days old, received from any VSBE Subcontractor, the amount of each invoice and the reason payment has not been made; and
  - 2) **Attachment E-4**, the VSBE Participation Subcontractor Paid/Unpaid VSBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the VSBE Liaison Officer.
- B. Include in its agreements with its VSBE Subcontractors a requirement that those Subcontractors submit monthly by the 10th of the month following the reporting period to the Contract Monitor and Department VSBE representative a report that identifies the prime contract and lists all payments received from Contractor in the preceding reporting period month, as well as any outstanding invoices, and the amount of those invoices (**Attachment E-4**).
- C. Maintain such records as are necessary to confirm compliance with its VSBE participation obligations. These records must indicate the identity of VSBE and non-VSBE Subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. The subcontract agreement documenting the work performed by all VSBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
- D. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the VSBE participation obligations. The Contractor must retain all records concerning VSBE participation and make them available for State inspection for three (3) years after final completion of the Contract.
- E. At the option of the Department, upon completion of the Contract and before final payment and release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from VSBE Subcontractors.

### **3.14 Work Orders**

THIS SECTION IS INAPPLICABLE TO THIS RFP.

### 3.15 Additional Clauses

The Contractor shall be subject to the requirements in this section and shall flow down the provisions of **Sections 3.15.1 – 3.15.5** (or the substance thereof) in all subcontracts.

#### 3.15.1 Custom Software

- A. As described in the sample Contract (**Attachment M**), the State shall solely own any custom software, including, but not limited to application modules developed to integrate with a COTS, source-codes, maintenance updates, documentation, and configuration files, when developed under the Contract.
- B. Upon a Contractor's voluntary or involuntary filing of bankruptcy or any other insolvency proceeding, Contractor's dissolution, Contractor's discontinuance of support of any software or system, the Contractor shall convey to the State all rights, title, and interests in all custom software, licenses, software source codes, and all associated System Documentation that comprises any solutions proposed as a part of the Contract. These rights include, but are not limited to, the rights to use, and cause others to use on behalf of the State, said software, software documentation, licenses, software source codes, and System Documentation.

#### 3.15.2 Custom Source Code

- A. For all custom software provided to the State pursuant to any Contract, the Contractor shall either provide the source code directly to the State in a form acceptable to the State, or deliver two copies of each software source code and software source code documentation to a State-approved escrow agent at no additional cost to the State following the terms set forth in the sample contract (**Attachment M**) and in **Section 3.15.3** below.
- B. The State shall have the right to audit custom software source code and corresponding software source code documentation for each software product that comprises the solution as represented by the Contractor. This audit shall be scheduled at any time that is convenient for the parties to be present. The State shall be provided with software or other tools required to view all software source code.
- C. The Contractor shall provide the current source code and documentation for all custom software to the State at the time of Contract termination.

#### 3.15.3 Source Code Escrow

Source Code Escrow applies to the Contract. The Contractor shall perform source code escrow as described herein.

- A. The State will be named as a beneficiary under an escrow agreement ("Escrow Agreement") that shall be entered into between the Contractor and an escrow agent ("Escrow Agent") within 30 days of the date hereof pursuant to which Contractor shall deliver a Source Code Escrow Package to Escrow Agent. The term "Source Code Escrow Package" means: a) a complete copy in machine-readable form of the source code and executable code of the software licensed to the State under the Contract; b) a complete copy of any existing design documentation and user documentation; and/or c) complete instructions for compiling and linking every part of the source code into executable code for purposes of enabling verification of the completeness of the source code as provided below. The Escrow Agreement shall govern the maintenance and release of the Source Code Escrow Package, and Contractor agrees to update, enhance, or otherwise modify such Source Code Escrow Package promptly upon each release of a new version of any component thereof. Contractor shall pay all fees and expenses charged by Escrow Agent, including, but not limited to, fees and expenses related to the State being a named beneficiary under the Escrow Agreement.

The State shall treat the Source Code Escrow Package as Contractor's confidential information. Under all circumstances, the Source Code Escrow Package shall remain the property of Contractor. The State shall only use the Source Code Escrow Package as contemplated in the Contract (including, but not limited to confidentiality provisions and usage restrictions). The Escrow Agent shall maintain the Source Code Escrow Package in a repository located in the United States.

- B. In the event that the Escrow Agent either ceases providing escrow services to Contractor or Contractor determines in its reasonable business judgment that the Escrow Agent is no longer providing acceptable services, Contractor shall replace the Escrow Agent with another escrow agent, using an agreement which provides the State with rights no less advantageous than those in the Escrow Agreement. In such case, the new escrow agent shall be substituted in all ways for the incumbent Escrow Agent with respect to **Section 3.15.3.A** above and all references herein to Escrow Agent shall be deemed to include such substitute escrow agent.
- C. Contractor shall inform the State of the availability of an escrow for any third party software solutions it provides to the State.
- D. In addition to the rights and obligations contained in the Escrow Agreement referenced in **Section 3.15.3.A**, the State shall have the Software Escrow Package released by the Escrow Agent to the State's possession immediately upon any voluntary or involuntary filing of bankruptcy or any other insolvency proceeding, including but not limited to a general assignment for the benefit of including but not limited to a general assignment for the benefit of creditors, the appointment of a receiver for business or assets; creditors, the appointment of a receiver for business or assets; Contractor's dissolution or liquidation, voluntary or otherwise; the State has compelling reasons to believe that such events will cause Contractor to fail to meet its obligations in the foreseeable future; or Contractor's discontinuance of support or failure to support in accordance with the Contract any software system or if the Contractor is otherwise unable or unwilling to provide the Source Code Escrow Package. This condition will also be considered met if after repeated e-mail and phone requests by the State for service, the State makes a request for service in writing to the Contractor's last known address served by certified signed receipt required mail delivery by U.S. Post Office or by a nationally recognized (in the United States) overnight carrier, and the Contractor remains unresponsive, meaning that the Contractor is unable to acknowledge message receipt, unwilling or otherwise unable to satisfy the request for a period longer than 45 days from attempt to deliver the written request.

#### **3.15.4 Purchasing and Recycling Electronic Products**

This section does not apply to this solicitation.

#### **3.15.5 Change Control and Advance Notice**

- A. Unless otherwise specified in an applicable Service Level Agreement, the Contractor shall give seven (7) days advance notice to the State of any upgrades or modifications that may impact service availability and performance.
- B. Contractor may not modify the functionality or features of any SaaS provided hereunder if such modification materially degrades the functionality of the SaaS.

#### **3.15.6 No-Cost Extensions**

In accordance with BPW Advisory 1995-1 item 7.b, in the event there are unspent funds remaining on the Contract, prior to the Contract's expiration date the Procurement Officer may modify the Contract to extend the Contract beyond its expiration date for a period up to, but not exceeding, one-third of the base term of the Contract (e.g., eight-month extension on a two-year contract) for the performance of

work within the Contract's scope of work. Notwithstanding anything to the contrary, no funds may be added to the Contract in connection with any such extension.



## 4 Procurement Instructions

### 4.1 Pre-Proposal Conference

- 4.1.1 A Pre-Proposal conference (Conference) will be held at the date, time, and location indicated on the Key Information Summary Sheet.
- 4.1.2 Attendance at the Conference is not mandatory, but all interested parties are encouraged to attend in order to facilitate better preparation of their Proposals.
- 4.1.3 Following the Conference, the attendance record and summary of the Conference will be distributed via the same mechanism described for amendments and questions (see **Section 4.2.1 eMM**).
- 4.1.4 Attendees should bring a copy of the solicitation and a business card to help facilitate the sign-in process.
- 4.1.5 In order to assure adequate seating and other accommodations at the Conference, please e-mail the Pre-Proposal Conference Response Form (**Attachment A**) no later than the time and date indicated on the form. In addition, if there is a need for sign language interpretation or other special accommodations due to a disability, please notify the Procurement Officer at least five (5) Business Days prior to the Conference date. The Department will make a reasonable effort to provide such special accommodation.
- 4.1.6 Those wishing to attend the web conference may request a meeting invitation by emailing Nikardi Jallah at [nikardi.jallah@maryland.gov](mailto:nikardi.jallah@maryland.gov) no later than 2:00 PM on , August 8, 2019 at 2:00 PM Local Time. An invitation e-mail is required for registration, and therefore attendance. Upon receipt of the email, the Procurement Officer will reply with a registration email with a link that may be used to register for the conference. Registration must be completed by 2:00 August 8, 2019

### 4.2 eMaryland Marketplace (eMM)

- 4.2.1 eMM is the electronic commerce system for the State of Maryland. The RFP, Conference summary and attendance sheet, Offerors' questions and the Procurement Officer's responses, addenda, and other solicitation-related information will be made available via eMM.
- 4.2.2 In order to receive a contract award, a vendor must be registered on eMM. Registration is free. Go to <https://emaryland.buyspeed.com/bso/login.jsp>, click on "Register" to begin the process, and then follow the prompts.

### 4.3 Questions

- 4.3.1 All questions, including concerns regarding any applicable MBE or VSBE participation goals, shall identify in the subject line the Solicitation Number and Title OPASS 20-18471 Maryland Youth Risk Behavior Survey and Youth Tobacco Survey (YRBS/YTS) and shall be submitted in writing via e-mail to the Procurement Officer at least five (5) days prior to the Proposal due date. The Procurement Officer, based on the availability of time to research and communicate an answer, shall decide whether an answer can be given before the Proposal due date.
- 4.3.2 Answers to all questions that are not clearly specific only to the requestor will be distributed via the same mechanism as for RFP amendments, and posted on eMM.
- 4.3.3 The statements and interpretations contained in responses to any questions, whether responded to verbally or in writing, are not binding on the Department unless it issues an amendment in writing.

#### **4.4 Procurement Method**

A Contract will be awarded in accordance with the Competitive Sealed Proposals method under COMAR 21.05.03.

#### **4.5 Proposal Due (Closing) Date and Time**

- 4.5.1 Proposals, in the number and form set forth in **Section 5 Proposal Format**, must be received by the Procurement Officer no later than the Proposal due date and time indicated on the Key Information Summary Sheet in order to be considered.
- 4.5.2 Requests for extension of this date or time shall not be granted.
- 4.5.3 Offerors submitting Proposals should allow sufficient delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02.F and 21.05.02.10, Proposals received after the due date and time listed in the Key Information Summary Sheet will not be considered.
- 4.5.4 The date and time of an e-mail submission is determined by the date and time of arrival in the e-mail address indicated on the Key Information Summary Sheet.
- 4.5.5 Proposals may be modified or withdrawn by written notice received by the Procurement Officer before the time and date set forth in the Key Information Summary Sheet for receipt of Proposals.
- 4.5.6 Proposals may not be submitted by e-mail or facsimile. Proposals will not be opened publicly.
- 4.5.7 Potential Offerors not responding to this solicitation are requested to submit the “Notice to Vendors” form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements).

#### **4.6 Multiple or Alternate Proposals**

Multiple or alternate Proposals will not be accepted.

#### **4.7 Economy of Preparation**

Proposals should be prepared simply and economically and provide a straightforward and concise description of the Offeror’s Proposal to meet the requirements of this RFP.

#### **4.8 Public Information Act Notice**

- 4.8.1 The Offeror should give specific attention to the clear identification of those portions of its Proposal that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Md. Code Ann., General Provisions Article, Title 4 (See also RFP **Section 5.3.2.B** “Claim of Confidentiality”). This information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal and if applicable, separately in the Financial Proposal.
- 4.8.2 Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information must be disclosed.

#### **4.9 Award Basis**

A Contract shall be awarded to the responsible Offeror(s) submitting the Proposal that has been determined to be the most advantageous to the State, considering price and evaluation factors set forth

in this RFP (see COMAR 21.05.03.03F), for providing the goods and services as specified in this RFP. See RFP **Section 6** for further award information.

#### **4.10 Oral Presentation**

Offerors may be required to make oral presentations to State representatives. Oral presentations are considered part of the Technical Proposal. Offerors must confirm in writing any substantive oral clarification of, or change in, their Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's Proposal. The Procurement Officer will notify Offerors of the time and place of oral presentations.

#### **4.11 Duration of Proposal**

Proposals submitted in response to this RFP are irrevocable for the latest of the following: 120 days following the Proposal due date and time, best and final offers if requested (see **Section 6.5.2**), or the date any protest concerning this RFP is finally resolved. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

#### **4.12 Revisions to the RFP**

- 4.12.1 If the RFP is revised before the due date for Proposals, the Department shall post any addenda to the RFP on eMM and shall endeavor to provide such addenda to all prospective Offerors that were sent this RFP or are otherwise known by the Procurement Officer to have obtained this RFP. It remains the responsibility of all prospective Offerors to check eMM for any addenda issued prior to the submission of Proposals.
- 4.12.2 Acknowledgment of the receipt of all addenda to this RFP issued before the Proposal due date shall be included in the Transmittal Letter accompanying the Offeror's Technical Proposal.
- 4.12.3 Addenda made after the due date for Proposals will be sent only to those Offerors that remain under award consideration as of the issuance date of the addenda.
- 4.12.4 Acknowledgement of the receipt of addenda to the RFP issued after the Proposal due date shall be in the manner specified in the addendum notice.
- 4.12.5 Failure to acknowledge receipt of an addendum does not relieve the Offeror from complying with the terms, additions, deletions, or corrections set forth in the addendum, and may cause the Proposal to be deemed not reasonably susceptible of being selected for award.

#### **4.13 Cancellations**

- 4.13.1 The State reserves the right to cancel this RFP, accept or reject any and all Proposals, in whole or in part, received in response to this RFP, waive or permit the cure of minor irregularities, and conduct discussions with all qualified or potentially qualified Offerors in any manner necessary to serve the best interests of the State.
- 4.13.2 The State reserves the right, in its sole discretion, to award a Contract based upon the written Proposals received without discussions or negotiations.
- 4.13.3 In the event a government entity proposes and receives the recommendation for award, the procurement may be cancelled, and the award processed in accordance with COMAR 21.01.03.01.A(4).

#### **4.14 Incurred Expenses**

The State will not be responsible for any costs incurred by any Offeror in preparing and submitting a Proposal, in making an oral presentation, providing a demonstration, or performing any other activities related to submitting a Proposal in response to this solicitation.

#### **4.15 Protest/Disputes**

Any protest or dispute related to this solicitation or the Contract award shall be subject to the provisions of COMAR 21.10 (Administrative and Civil Remedies).

#### **4.16 Offeror Responsibilities**

- 4.16.1 Offerors must be able to provide all goods and services and meet all of the requirements requested in this solicitation and the successful Offeror shall be responsible for Contract performance including any Subcontractor participation.
- 4.16.2 All Subcontractors shall be identified and a complete description of their role relative to the Proposal shall be included in the Offeror's Proposal. If applicable, Subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate Attachment(s) to this RFP (see **Section 4.26** "Minority Participation Goal" and **Section 4.27** "VSBE Goal").
- 4.16.3 If the Offeror is the subsidiary of another entity, all information submitted by the Offeror, including but not limited to references, financial reports, or experience and documentation (e.g. insurance policies, bonds, letters of credit) used to meet minimum qualifications, if any, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's Proposal shall contain an explicit statement, signed by an authorized representative of the parent organization, stating that the parent organization will guarantee the performance of the subsidiary.
- 4.16.4 A parental guarantee of the performance of the Offeror under this Section will not automatically result in crediting the Offeror with the experience or qualifications of the parent under any evaluation criteria pertaining to the actual Offeror's experience and qualifications. Instead, the Offeror will be evaluated on the extent to which the State determines that the experience and qualifications of the parent are applicable to and shared with the Offeror, any stated intent by the parent to be directly involved in the performance of the Contract, and the value of the parent's participation as determined by the State.

#### **4.17 Acceptance of Terms and Conditions**

By submitting a Proposal in response to this RFP, the Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached hereto as **Attachment M**. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the Technical Proposal. **All exceptions will be taken into consideration when evaluating the Offeror's Proposal. The Department reserves the right to accept or reject any exceptions.**

#### **4.18 Proposal Affidavit**

A Proposal submitted by the Offeror must be accompanied by a completed Proposal Affidavit. A copy of this Affidavit is included as **Attachment C** of this RFP.

#### **4.19 Contract Affidavit**

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included for informational purposes as **Attachment N** of this RFP. This Affidavit must be provided within five (5) Business Days of notification of recommended award. For purposes of completing Section “B” of this Affidavit (Certification of Registration or Qualification with the State Department of Assessments and Taxation), a business entity that is organized outside of the State of Maryland is considered a “foreign” business.

#### **4.20 Compliance with Laws/Arrearages**

By submitting a Proposal in response to this RFP, the Offeror, if selected for award, agrees that it will comply with all federal, State, and local laws applicable to its activities and obligations under the Contract.

By submitting a response to this solicitation, each Offeror represents that it is not in arrears in the payment of any obligations due and owing the State, including the payment of taxes and employee benefits, and shall not become so in arrears during the term of the Contract if selected for Contract award.

#### **4.21 Verification of Registration and Tax Payment**

Before a business entity can do business in the State, it must be registered with the State Department of Assessments and Taxation (SDAT). SDAT is located at State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. For registration information, visit <https://www.egov.maryland.gov/businessexpress>.

It is strongly recommended that any potential Offeror complete registration prior to the Proposal due date and time. The Offeror’s failure to complete registration with SDAT may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

#### **4.22 False Statements**

Offerors are advised that Md. Code Ann., State Finance and Procurement Article, § 11-205.1 provides as follows:

- 4.22.1 In connection with a procurement contract a person may not willfully:
  - A. Falsify, conceal, or suppress a material fact by any scheme or device.
  - B. Make a false or fraudulent statement or representation of a material fact.
  - C. Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- 4.22.2 A person may not aid or conspire with another person to commit an act under **Section 4.22.1**.
- 4.22.3 A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding five (5) years or both.

#### **4.23 Payments by Electronic Funds Transfer**

By submitting a Proposal in response to this solicitation, the Offeror, if selected for award:

- 4.23.1 Agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller’s Office grants an exemption. Payment by EFT is mandatory for contracts exceeding \$200,000. The

successful Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form.

- 4.23.2 Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form, must include the business identification information as stated on the form, and must include the reason for the exemption. The COT/GAD X-10 form may be downloaded from the Comptroller's website at:  
[http://comptroller.marylandtaxes.com/Vendor\\_Services/Accounting\\_Information/Static\\_Files/GADX10Form20150615.pdf](http://comptroller.marylandtaxes.com/Vendor_Services/Accounting_Information/Static_Files/GADX10Form20150615.pdf).

#### **4.24 Prompt Payment Policy**

This procurement and the Contract(s) to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Small, Minority & Women Business Affairs (GOSBA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3, and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all Subcontractors on non-construction procurement contracts. The Contractor shall comply with the prompt payment requirements outlined in the Contract, Section 31 "Prompt Pay Requirements" (see **Attachment M**), should an MBE goal apply to this RFP. Additional information is available on GOSBA's website at:  
<http://www.gomdsmallbiz.maryland.gov/documents/legislation/promptpaymentfaqs.pdf>.

#### **4.25 Electronic Procurements Authorized**

- 4.25.1 Under COMAR 21.03.05, unless otherwise prohibited by law, the Department may conduct procurement transactions by electronic means, including the solicitation, proposing, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.
- 4.25.2 Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or Contract. In the case of electronic transactions authorized by this RFP, electronic records and signatures by an authorized representative satisfy a requirement for written submission and signatures.
- 4.25.3 "Electronic means" refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://emaryland.buyspeed.com/bso/>), and electronic data interchange.
- 4.25.4 In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., RFP § 4.23 describing payments by Electronic Funds Transfer), the following transactions are authorized to be conducted by electronic means on the terms as authorized in COMAR 21.03.05:
- A. The Procurement Officer may conduct the procurement using eMM, e-mail, or facsimile to issue:
    - 1) The RFP;
    - 2) Any amendments and requests for best and final offers;
    - 3) Pre-Proposal conference documents;

- 4) Questions and responses;
  - 5) Communications regarding the solicitation or Proposal to any Offeror or potential Offeror;
  - 6) Notices of award selection or non-selection; and
  - 7) The Procurement Officer's decision on any Proposal protest or Contract claim.
- B. The Offeror or potential Offeror may use e-mail to:
- 1) Ask questions regarding the solicitation;
  - 2) Reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer and;
  - 3) Submit a "No Proposal Response" to the RFP.
- C. The Procurement Officer, the Contract Monitor, and the Contractor may conduct day-to-day Contract administration, except as outlined in **Section 4.25.5** of this subsection, utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Contract Monitor.
- 4.25.5 The following transactions related to this procurement and any Contract awarded pursuant to it are **not authorized** to be conducted by electronic means:
- A. Submission of initial Proposals
  - B. Filing of protests;
  - C. Filing of Contract claims;
  - D. Submission of documents determined by the Department to require original signatures (e.g., Contract execution, Contract modifications); or
  - E. Any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Offeror be provided in writing or hard copy.
- 4.25.6 Any facsimile or e-mail transmission is only authorized to the facsimile numbers or e-mail addresses for the identified person as provided in the solicitation, the Contract, or in the direction from the Procurement Officer or Contract Monitor.

## 4.26 MBE Participation Goal

### 4.26.1 Establishment of Goal and Subgoals

An overall MBE Subcontractor participation goal as identified in the Key Information Summary Sheet has been established for this procurement, representing a percentage of the total Contract dollar value, including all renewal option terms, if any, has been established for this procurement.

Notwithstanding any subgoals established for this RFP, the Contractor is encouraged to use a diverse group of Subcontractors and suppliers from any/all of the various MBE classifications to meet the remainder of the overall MBE participation goal.

By submitting a response to this solicitation, the Offeror acknowledges the overall MBE Subcontractor participation goal and subgoals and commits to achieving the overall goal and subgoals by utilizing

certified minority business enterprises, or requests a full or partial waiver of the overall goal and subgoals.

**An Offeror that does not commit to meeting the entire MBE participation goal outlined in this Section 4.26 must submit a request for waiver with its proposal submission that is supported by good faith efforts documentation to meet the MBE goal made prior to submission of its proposal as outlined in Attachment D-1B, Waiver Guidance. Failure of an Offeror to properly complete, sign, and submit Attachment D-1A at the time it submits its Technical Response(s) to the RFP will result in the State's rejection of the Offeror's Proposal for the applicable Service Category. This failure is not curable.**

#### 4.26.2 Attachments.

- A. D-1 to D-5 – The following Minority Business Enterprise participation instructions, and forms are provided to assist Offerors:
  - 1. Attachment D-1A MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (must be submitted with Proposal)
  - 2. Attachment D-1B Waiver Guidance
  - 3. Attachment D-1C Good Faith Efforts Documentation to Support Waiver Request
  - 4. Attachment D-2 Outreach Efforts Compliance Statement
  - 5. Attachment D-3A MBE Subcontractor Project Participation Certification
  - 6. Attachment D-3B MBE Prime Project Participation Certification
  - 7. Attachment D-4A Prime Contractor Paid/Unpaid MBE Invoice Report
  - 8. Attachment D-4B MBE Prime Contractor Report
  - 9. Attachment D-5 Subcontractor Paid/Unpaid MBE Invoice Report
- B. The Offeror shall include with its Proposal a completed MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) whereby:
  - 1. The Offeror acknowledges the certified MBE participation goal and commits to make a good faith effort to achieve the goal and any applicable subgoals, or requests a waiver, and affirms that MBE Subcontractors were treated fairly in the solicitation process; and
  - 2. The Offeror responds to the expected degree of MBE participation, as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of Proposal submission. The Offeror shall specify the percentage of total contract value associated with each MBE Subcontractor identified on the MBE participation schedule, including any work performed by the MBE prime (including a prime participating as a joint venture) to be counted towards meeting the MBE participation goals.
  - 3. The Offeror requesting a waiver should review **Attachment D-1B** (Waiver Guidance) and **D-1C** (Good Faith Efforts Documentation to Support Waiver Request) prior to submitting its request.



**An Offeror must properly complete and submit a separate Attachment D-1A, MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule, for EACH Service Category (I and II) for which it is submitting a proposal. If an Offeror is submitting a proposal for each of Service Categories I and II, the Offeror must submit two separate Attachment D-1As, one for each of the two Service Categories.**

***If the Offeror fails to submit a completed Attachment D-1A with the Proposal as required, the Procurement Officer shall determine that the Proposal is not reasonably susceptible of being selected for award.***

- 4.26.3 Offerors are responsible for verifying that each MBE (including any MBE prime and MBE prime participating in a joint venture) selected to meet the goal and any subgoals and subsequently identified in **Attachment D-1A** is appropriately certified and has the correct NAICS codes allowing it to perform the committed work.
- 4.26.4 Within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, the Offeror must provide the following documentation to the Procurement Officer.
- A. Outreach Efforts Compliance Statement (**Attachment D-2**);
  - B. MBE Subcontractor/Prime Project Participation Certification (**Attachment D-3A/3B**); and
  - C. Any other documentation required by the Procurement Officer to ascertain Offeror responsibility in connection with the certified MBE Subcontractor participation goal or any applicable subgoals.
  - D. Further, if the recommended awardee believes a waiver (in whole or in part) of the overall MBE goal or of any applicable subgoal is necessary, the recommended awardee must submit a fully-documented waiver request that complies with COMAR 21.11.03.11.

***If the recommended awardee fails to return each completed document within the required time, the Procurement Officer may determine that the recommended awardee is not responsible and, therefore, not eligible for Contract award. If the Contract has already been awarded, the award is voidable.***

- 4.26.5 A current directory of certified MBEs is available through the Maryland State Department of Transportation (MDOT), Office of Minority Business Enterprise, 7201 Corporate Center Drive, Hanover, Maryland 21076. The phone numbers are (410) 865-1269, 1-800-544-6056, or TTY (410) 865-1342. The directory is also available on the MDOT website at <http://mbe.mdot.maryland.gov/directory/>. The most current and up-to-date information on MBEs is available via this website. **Only MDOT-certified MBEs may be used to meet the MBE subcontracting goals.**
- 4.26.6 The Offeror that requested a waiver of the goal or any of the applicable subgoals will be responsible for submitting the Good Faith Efforts Documentation to Support Waiver Request (**Attachment D-1C**) and all documentation within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, as required in COMAR 21.11.03.11.
- 4.26.7 All documents, including the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (**Attachment D-1A**), completed and submitted by the Offeror in connection with its certified MBE participation commitment shall be considered a part of the Contract and are hereby expressly incorporated into the Contract by reference thereto. All of the referenced documents will be considered a part of the Proposal for order of precedence purposes (see Contract – **Attachment M, Section 2.1**).

- 4.26.8 The Offeror is advised that liquidated damages will apply in the event the Contractor fails to comply in good faith with the requirements of the MBE program and pertinent Contract provisions. (See Contract – **Attachment M, Liquidated Damages for MBE, section 39**)
- 4.26.9 As set forth in COMAR 21.11.03.12-1(D), when a certified MBE firm participates on a contract as a prime contractor (including a joint-venture where the MBE firm is a partner), a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own work force towards fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the contract.

In order to receive credit for self-performance, an MBE prime must list its firm in Section 4A of the MBE Participation Schedule (**Attachment D-1A**) and include information regarding the work it will self-perform. For the remaining portion of the overall goal and the subgoals, the MBE prime must also identify other certified MBE Subcontractors [see Section 4B of the MBE Participation Schedule (**Attachment D-1A**)] used to meet those goals. If dually-certified, the MBE prime can be designated as only one of the MBE subgoal classifications but can self-perform up to 100% of the stated subgoal.

As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract. Refer to MBE forms (**Attachment D**) for additional information.

## **4.27 VSBE Goal**

### **4.27.1 Purpose**

- A. The Contractor shall structure its procedures for the performance of the work required in the Contract to attempt to achieve the VSBE participation goal stated in this solicitation. VSBE performance must be in accordance with this section and **Attachment E**, as authorized by COMAR 21.11.13. The Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this section and **Attachment E**.
- B. Veteran-Owned Small Business Enterprises must be verified by the Office of Small and Disadvantaged Business Utilization (OSDBU) of the United States Department of Veterans Affairs. The listing of verified VSBEs may be found at <http://www.va.gov/osdbu>.

### **4.27.2 VSBE Goal**

- A. A VSBE participation goal of the total Contract dollar amount has been established for this procurement as identified in the Key Information Summary Sheet.
- B. By submitting a response to this solicitation, the Offeror agrees that this percentage of the total dollar amount of the Contract will be performed by verified veteran-owned small business enterprises.

### **4.27.3 Solicitation and Contract Formation**

- A. In accordance with COMAR 21.11.13.05 C (1), this solicitation requires Offerors to:
  - 1) Identify specific work categories within the scope of the procurement appropriate for subcontracting;
  - 2) Solicit VSBEs before Proposals are due, describing the identified work categories and providing instructions on how to bid on the subcontracts;

- 3) Attempt to make personal contact with the VSBEs solicited and to document these attempts;
  - 4) Assist VSBEs to fulfill, or to seek waiver of, bonding requirements; and
  - 5) Attempt to attend preproposal or other meetings the procurement agency schedules to publicize contracting opportunities to VSBEs.
- B. The Offeror must include with its Proposal a completed VSBE Utilization Affidavit and Prime/Subcontractor Participation Schedule (**Attachment E-1**) whereby the Offeror:
- 1) Acknowledges it: a) intends to meet the VSBE participation goal; or b) requests a full or partial waiver of the VSBE participation goal. If the Offeror commits to the full VSBE goal or requests a partial waiver, it shall commit to making a good faith effort to achieve the stated goal; and
  - 2) Responds to the expected degree of VSBE participation as stated in the solicitation, by identifying the specific commitment of VSBEs at the time of Proposal submission. The Offeror shall specify the percentage of contract value associated with each VSBE prime/Subcontractor identified on the VSBE Participation Schedule.

**An Offeror must properly complete and submit a separate Attachment E-1, VSBE Utilization Affidavit and Prime/Subcontractor Participation Schedule, for EACH Service Category (I and II) for which it is submitting a proposal. If an Offeror is submitting a proposal for each of Service Categories I and II, the Offeror must submit two separate Attachment E-1s, one for each of the two Service Categories.**

- C. As set forth in COMAR 21.11.13.05.B(2), when a verified VSBE firm participates on a Contract as a Prime Contractor, a procurement agency may count the distinct, clearly defined portion of the work of the contract that the VSBE Prime Contractor performs with its own work force towards meeting up to one hundred percent (100%) of the VSBE goal.
- D. In order to receive credit for self-performance, a VSBE Prime must list its firm in the VSBE Prime/Subcontractor Participation Schedule (**Attachment E-1**) and include information regarding the work it will self-perform. For any remaining portion of the VSBE goal that is not to be performed by the VSBE Prime, the VSBE Prime must also identify verified VSBE Subcontractors used to meet the remainder of the goal.
- E. Within 10 Business Days from notification that it is the apparent awardee, the awardee must provide the following documentation to the Procurement Officer:
  - 1) VSBE Project Participation Statement (**Attachment E-2**);
  - 2) If the apparent awardee believes a full or partial waiver of the overall VSBE goal is necessary, it must submit a fully-documented waiver request that complies with COMAR 21.11.13.07; and
  - 3) Any other documentation required by the Procurement Officer to ascertain Offeror responsibility in connection with the VSBE participation goal.

***If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not reasonably susceptible of being selected for award.***

## 4.28 Living Wage Requirements

- A. Maryland law requires that contractors meeting certain conditions pay a living wage to covered employees on State service contracts over \$100,000. Maryland Code Ann., State Finance and Procurement Article, § 18-101 et al. The Commissioner of Labor and Industry at the Department of Labor, Licensing and Regulation requires that a contractor subject to the Living Wage law submit payroll records for covered employees and a signed statement indicating that it paid a living wage to covered employees; or receive a waiver from Living Wage reporting requirements. See COMAR 21.11.10.05.
- B. If subject to the Living Wage law, Contractor agrees that it will abide by all Living Wage law requirements, including but not limited to reporting requirements in COMAR 21.11.10.05. Contractor understands that failure of Contractor to provide such documents is a material breach of the terms and conditions and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions. Information pertaining to reporting obligations may be found by going to the Maryland Department of Labor, Licensing and Regulation (DLLR) website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml>.
- C. Additional information regarding the State's living wage requirement is contained in **Attachment F**. Offerors must complete and submit the Maryland Living Wage Requirements Affidavit of Agreement (**Attachment F-1**) with their Proposals. If the Offeror fails to complete and submit the required documentation, the State may determine the Offeror to not be responsible under State law.
- D. Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. The specific living wage rate is determined by whether a majority of services take place in a Tier 1 Area or a Tier 2 Area of the State. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State.
  - 1) The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State Contract pursuant to §18-102(d) of the State Finance and Procurement Article shall assign the tier based upon where the recipients of the services are located. If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. In this circumstance, the Contract will be determined to be a Tier (enter "1" or "2," depending on where the majority of the service recipients are located) Contract.
  - 2) The Contract will be determined to be a Tier 1 Contract or a Tier 2 Contract depending on the location(s) from which the Contractor provides 50% or more of the services. The Offeror must identify in its Proposal the location(s) from which services will be provided, including the location(s) from which 50% or more of the Contract services will be provided.
  - 3) If the Contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the Contract will be a Tier 1 Contract.
  - 4) If the Contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the Contract will be a Tier 2 Contract.

- E. If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. See COMAR 21.11.10.07.
- F. The Offeror shall identify in the Proposal the location from which services will be provided.
- G. **NOTE:** Whereas the Living Wage may change annually, the Contract price will not change because of a Living Wage change.

## **4.29 Federal Funding Acknowledgement**

This Contract does not contain federal funds.

## **4.30 Conflict of Interest Affidavit and Disclosure**

- 4.30.1 By submitting a Conflict of Interest Affidavit and Disclosure, the Contractor shall be construed as certifying all Contractor Personnel and Subcontractors are also without a conflict of interest as defined in COMAR 21.05.08.08A.
- 4.30.2 Additionally, a Contractor has an ongoing obligation to ensure that all Contractor Personnel are without conflicts of interest prior to providing services under the Contract. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08.
- 4.30.3 Participation in Drafting of Specifications: Disqualifying Event: Offerors are advised that Md. Code Ann. State Finance and Procurement Article §13-212.1(a) provides generally that “an individual who assists an executive unit in the drafting of specifications, an invitation for bids, a request for proposals for a procurement, or the selection or award made in response to an invitation for bids or a request for proposals, or a person that employs the individual, may not: (1) submit a bid or proposal for that procurement; or (2) assist or represent another person, directly or indirectly, who is submitting a bid or proposal for that procurement.” Any Offeror submitting a Proposal in violation of this provision shall be classified as “not responsible.” See COMAR 21.05.03.03.

## **4.31 Non-Disclosure Agreement**

### **4.31.1 Non-Disclosure Agreement (Offeror)**

A Non-Disclosure Agreement (Offeror) is not required for this procurement.

### **4.31.2 Non-Disclosure Agreement (Contractor)**

A Non-Disclosure Agreement (Contractor) is not required for this procurement.

## **4.32 HIPAA - Business Associate Agreement**

A HIPAA Business Associate Agreement is not required for this procurement.

## **4.33 Nonvisual Access**

This solicitation does not contain Information Technology (IT) provisions requiring Nonvisual Access.

## **4.34 Mercury and Products That Contain Mercury**

This solicitation does not include the procurement of products known to likely include mercury as a component.

#### **4.35 Location of the Performance of Services Disclosure**

The Offeror is required to complete the Location of the Performance of Services Disclosure. A copy of this Disclosure is included as **Attachment L**. The Disclosure must be provided with the Proposal.

#### **4.36 Department of Human Services (DHS) Hiring Agreement**

This solicitation does not require a DHS Hiring Agreement.

#### **4.37 Small Business Reserve (SBR) Procurement**

This solicitation is not designated as a Small Business Reserve (SBR) Procurement.

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## 5 Proposal Format

### 5.1 Two Part Submission

Offerors shall submit Proposals in separate volumes:

- Volume I –Technical Proposal
- Volume II – Financial Proposal

### 5.2 Proposal Delivery and Packaging

#### 5.2.1 Proposals delivered by facsimile and e-mail shall not be considered.

5.2.2 Provide no pricing information in the Technical Proposal. Provide no pricing information on the media submitted in the Technical Proposal.

5.2.3 Offerors may submit Proposals by hand or by mail as described below to the address provided in the Key Information Summary Sheet.

- A. Any Proposal received at the appropriate mailroom, or typical place of mail receipt, for the respective procuring unit by the time and date listed in the RFP will be deemed to be timely. The State recommends a delivery method for which both the date and time of receipt can be verified.
- B. For hand-delivery, Offerors are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery. Hand-delivery includes delivery by commercial carrier acting as agent for the Offeror.

5.2.4 The Procurement Officer must receive all Proposal material by the RFP due date and time specified in the Key Information Summary Sheet. Requests for extension of this date or time will not be granted. Except as provided in COMAR 21.05.03.02F, Proposals received by the Procurement Officer after the due date will not be considered.

5.2.5 Offerors shall provide their Proposals in two separately sealed and labeled packages as follows:

A. Volume I - Technical Proposal consisting of:

- 1) One (1) original executed Technical Proposal and all supporting material marked and sealed,
- 2) Four (4) duplicate copies of the above separately marked and sealed,
- 3) an electronic version of the Technical Proposal in Microsoft Word format, version 2007 or greater,
- 4) the Technical Proposal in searchable Adobe PDF format, and
- 5) a second searchable Adobe PDF copy of the Technical Proposal with confidential and proprietary information redacted (see **Section 4.8**).

B. Volume II - Financial Proposal consisting of:

- 1) One (1) original executed Financial Proposal and all supporting material marked and sealed,
- 2) Four (4) duplicate copies of the above separately marked and sealed,
- 3) an electronic version of the Financial Proposal in searchable Adobe PDF format, and an Excel format.

- 4) a second searchable Adobe pdf copy of the Financial Proposal, with confidential and proprietary information redacted (see **Section 4.8**).
- 5.2.6 Affix the following to the outside of each sealed Proposal. Include the name, email address, and telephone number of a contact person for the Offeror be included on the outside of the packaging for each volume. Unless the resulting package will be too unwieldy, the State's preference is for the separately sealed Technical and Financial Proposals to be submitted together in a single package to the Procurement Officer and including a label bearing:
- RFP title and number,
  - Name and address of the Offeror, and
  - Closing date and time for receipt of Proposals
- 5.2.7 Label each electronic media (CD, DVD, or flash drive) on the outside with the RFP title and number, name of the Offeror, and volume number. Electronic media must be packaged with the original copy of the appropriate Proposal (Technical or Financial).

### 5.3 Volume I - Technical Proposal

NOTE: Omit all **pricing information** from the Technical Proposal (Volume I). Include pricing information only in the Financial Proposal (Volume II).

- 5.3.1 In addition to the instructions below, responses in the Offeror's Technical Proposal shall reference the organization and numbering of Sections in the RFP (e.g., "Section 2.2.1 Response . . ."; "Section 2.2.2 Response . . ."). All pages of both Proposal volumes shall be consecutively numbered from beginning (Page 1) to end (Page "x").
- 5.3.2 The Technical Proposal shall include the following documents and information in the order specified as follows. Each section of the Technical Proposal shall be separated by a TAB as detailed below:
- A. Title Page and Table of Contents (Submit under TAB A)

The Technical Proposal should begin with a Title Page bearing the name and address of the Offeror and the name and number of this RFP. A Table of Contents shall follow the Title Page for the Technical Proposal, organized by section, subsection, and page number.
  - B. Claim of Confidentiality (If applicable, submit under TAB A-1)

Any information which is claimed to be confidential and/or proprietary information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal, and if applicable, separately in the Financial Proposal. An explanation for each claim of confidentiality shall be included (see **Section 4.8 "Public Information Act Notice"**). The entire Proposal cannot be given a blanket confidentiality designation - any confidentiality designation must apply to specific sections, pages, or portions of pages of the Proposal and an explanation for each claim shall be included.
  - C. Offeror Information Sheet and Transmittal Letter (Submit under TAB B)

The Offeror Information Sheet (see **Appendix 2**) and a Transmittal Letter shall accompany the Technical Proposal. The purpose of the Transmittal Letter is to transmit the Proposal and acknowledge the receipt of any addenda to this RFP issued before the Proposal due date and time. Transmittal Letter should be brief, be signed by an individual who is authorized to commit the Offeror to its Proposal and the requirements as stated in this RFP.
  - D. Executive Summary (Submit under TAB C)



The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled “Executive Summary.”

In addition, the Summary shall indicate whether the Offeror is the subsidiary of another entity, and if so, whether all information submitted by the Offeror pertains exclusively to the Offeror. If not, the subsidiary Offeror shall include a guarantee of performance from its parent organization as part of its Executive Summary (see **Section 4.16 “Offeror Responsibilities”**).

The Executive Summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (**Attachment M**), or any other exhibits or attachments. Acceptance or rejection of exceptions is within the sole discretion of the State. **Exceptions to terms and conditions, including requirements, may result in having the Proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.**

E. Minimum Qualifications Documentation (If applicable, Submit under TAB D)

The Offeror shall submit any Minimum Qualifications documentation that may be required, as set forth in RFP **Section 1**. If references are required in **RFP Section 1**, those references shall be submitted in this section and shall contain the information described in both **Section 1** and **Section 5.3.2.I**.

F. Offeror Technical Response to RFP Requirements and Proposed Work Plan (Submit under TAB E)

- 1) The Offeror shall address each RFP requirement (**RFP Section 2** and **Section 3**) in its Technical Proposal with a cross reference to the requirement and describe how its proposed goods and services, including the goods and services of any proposed Subcontractor(s), will meet or exceed the requirement(s). If the State is seeking Offeror agreement to any requirement(s), the Offeror shall state its agreement or disagreement. Any paragraph in the Technical Proposal that responds to an RFP requirement shall include an explanation of how the work will be performed. The response shall address each requirement in **Section 2** and **Section 3** in order and shall contain a cross reference to the requirement.
- 2) Any exception to a requirement, term, or condition may result in having the Proposal classified as not reasonably susceptible of being selected for award or the Offeror deemed not responsible.
- 3) The Offeror shall give a definitive section-by-section description of the proposed plan to meet the requirements of the RFP, i.e., a Work Plan. The Work Plan shall include the specific methodology, techniques, and number of staff, if applicable, to be used by the Offeror in providing the required goods and services as outlined in **RFP Section 2, Contractor Requirements: Scope of Work**. The description shall include an outline of the overall management concepts employed by the Offeror and a project management plan, including project control mechanisms and overall timelines. Project deadlines considered contract deliverables must be recognized in the Work Plan.
- 4) Implementation Schedule - Offeror shall provide the proposed implementation schedule with its Proposal.
- 5) The Offeror shall identify the location(s) from which it proposes to provide services, including, if applicable, any current facilities that it operates, and any required construction to satisfy the State’s requirements as outlined in this RFP.
- 6) The Offeror shall provide a draft Problem Escalation Procedure (PEP) that includes, at a minimum, titles of individuals to be contacted by the Contract Monitor should problems

arise under the Contract and explains how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. Final procedures shall be submitted as indicated in **Section 3.8**.

- 7) The Offeror shall provide a Backup solution/strategy recommendation as part of its Proposal.
- 8) The Offeror shall include a deliverable description and schedule describing the proposed Deliverables as mapped to the State SDLC and the Deliverables table in **Section 2.4.4**. The schedule shall also detail proposed submission due date/frequency of each recommended Deliverable.
- 9) Description of technical risk of migrating from the existing system.
- 10) Product Requirements
  - a) Offerors may propose open source software; however, the Offeror must provide operational support for the proposed software.
  - b) Details for each offering: The Offeror shall provide the following information for each offering:
    - i) Offering Name;
    - ii) Offeror relationship with manufacturer (e.g., manufacturer, reseller, partner);
    - iii) Manufacturer;
    - iv) Short description of capability;
    - v) Version (and whether version updates are limited in any way);
    - vi) License type (e.g., user, CPU, node, transaction volume);
    - vii) Subscription term (e.g., annual);
    - viii) License restrictions, if any;
    - ix) Operational support offered (e.g., customer support, help desk, user manuals online or hardcopy), including description of multiple support levels (if offered), service level measures and reporting;
    - x) Continuity of operations and disaster recovery plans for providing service at 24/7/365 level;
    - xi) Ability of the offering to read and export data in existing State enterprise data stores. Offerors in their Proposals shall describe the interoperability of data that can be imported or exported from the Solution, including generating industry standard formats;
    - xii) Any processing or storage of data outside of the continental U.S;

**G. Experience and Qualifications of Proposed Staff (Submit under TAB F)**

As part of the evaluation of the Proposal for this RFP, Offerors shall propose at least two (2) key personnel and shall describe in a Staffing Plan how additional staff resources shall be acquired to meet the needs of the Department. All other planned positions shall be described generally in the Staffing Plan and may not be used as evidence of fulfilling company or personnel minimum qualifications.

The Offeror shall identify the qualifications and types of staff proposed to be utilized under the Contract including information in support of the Personnel Experience criteria in **Section 3.10.2**. Specifically, the Offeror shall:

- 1) Describe in detail how the proposed staff experience and qualifications relate to their specific responsibilities, including any staff of proposed Subcontractor(s), as detailed in the Work Plan.
- 2) Include individual resumes for Key Personnel, including Key Personnel for any proposed Subcontractor(s), who are to be assigned to the project if the Offeror is awarded the Contract. Each resume should include the amount of experience the individual has had relative to the Scope of Work set forth in this solicitation (Section 2.3).
- 3) Include letters of intended commitment to work on the project, including letters from any proposed Subcontractor(s). Offerors should be aware of restrictions on substitution of Key Personnel prior to RFP award (see Substitution Prior to and Within 30 Days After Contract Execution in Section 3.11.5).
- 4) Provide an Organizational Chart outlining Personnel and their related duties. The Offeror shall include job titles and the percentage of time each individual will spend on his/her assigned tasks. Offerors using job titles other than those commonly used by industry standards must provide a crosswalk reference document.
- 5) If proposing differing personnel work hours than identified in the RFP, describe how and why it proposes differing personnel work hours.

H. Offeror Qualifications and Capabilities (Submit under TAB G)

The Offeror shall include information on past experience with similar projects and services including information in support of the Offeror Experience criteria in **Section 3.10.1**. The Offeror shall describe how its organization can meet the requirements of this RFP and shall also include the following information:

- 1) The number of years the Offeror has provided the similar goods and services;
- 2) The number of clients/customers and geographic locations that the Offeror currently serves;
- 3) Description of projects with culturally and geographically diverse populations;
- 4) The names and titles of headquarters or regional management personnel who may be involved with supervising the services to be performed under the Contract;
- 5) The Offeror's process for resolving billing errors; and
- 6) An organizational chart that identifies the complete structure of the Offeror including any parent company, headquarters, regional offices, and subsidiaries of the Offeror.
- 7) Case Studies – The Offeror shall document previous experience and expertise by providing a minimum of two (2) examples of projects/services within the past five (5) years, similar in size and complexity, that demonstrate the Offeror's (and its Subcontractors, if applicable) ability to effectively complete the requirements listed in the Scope of Work. Past or current work with MDH should not be included in the examples.

- 8) The Offeror shall not be currently providing services to an entity that is a part of the tobacco industry, as either a manufacturer of tobacco products or a distributor thereof and shall not have provided such services to such an entity since November 1998.

The Offeror shall complete Attachment P Conflict of Interest Affidavit for Services Performed for the Tobacco Industry and submit this attachment as part of its Technical Proposal to satisfy this requirement.

**I. References (Submit under TAB H)**

At least three (3) references are requested from customers who are capable of documenting the Offeror's ability to provide the goods and services specified in this RFP. References used to meet any Minimum Qualifications (see RFP **Section 1**) may be used to meet this request. Each reference shall be from a former or current customer for whom the Offeror has provided similar goods and services within the past five (5) years and shall include the following information:

- 1) Name of client organization;
- 2) Name, title, telephone number, and e-mail address, if available, of point of contact for client organization; and
- 3) Value, type, duration, and description of goods and services provided.

The Department reserves the right to request additional references or utilize references not provided by the Offeror. Points of contact must be accessible and knowledgeable regarding Offeror performance.

**J. List of Current or Prior State Contracts (Submit under TAB I)**

Provide a list of all contracts with any entity of the State of Maryland for which the Offeror is currently performing goods and services or for which services have been completed within the last five (5) years. For each identified contract, the Offeror is to provide:

- 1) The State contracting entity;
- 2) A brief description of the goods and services provided;
- 3) The dollar value of the contract;
- 4) The term of the contract;
- 5) The State employee contact person (name, title, telephone number, and, if possible, e-mail address); and
- 6) Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

Information obtained regarding the Offeror's level of performance on State contracts will be used by the Procurement Officer to determine the responsibility of the Offeror and considered as part of the experience and past performance evaluation criteria of the RFP.

**K. Financial Capability (Submit under TAB J)**

The Offeror must include in its Proposal a commonly-accepted method to prove its fiscal integrity. If available, the Offeror shall include Financial Statements, preferably a Profit and Loss (P&L) statement and a Balance Sheet, for the last two (2) years (independently audited preferred).

In addition, the Offeror may supplement its response to this Section by including one or more of the following with its response:

- 1) Dun & Bradstreet Rating;
- 2) Standard and Poor's Rating;
- 3) Lines of credit;
- 4) Evidence of a successful financial track record; and
- 5) Evidence of adequate working capital.

**L. Certificate of Insurance (Submit under TAB K)**

The Offeror shall provide a copy of its current certificate of insurance showing the types and limits of insurance in effect as of the Proposal submission date. The current insurance types and limits do not have to be the same as described in **Section 3.6**. See **Section 3.6** for the required insurance certificate submission for the apparent awardee.

**M. Subcontractors (Submit under TAB L)**

The Offeror shall provide a complete list of all Subcontractors that will work on the Contract if the Offeror receives an award, including those utilized in meeting the MBE and VSBE subcontracting goal(s), if applicable. This list shall include a full description of the duties each Subcontractor will perform and why/how each Subcontractor was deemed the most qualified for this project. If applicable, Subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate attachment(s) of this RFP.

**N. Legal Action Summary (Submit under TAB M)**

This summary shall include:

- 1) A statement as to whether there are any outstanding legal actions or potential claims against the Offeror and a brief description of any action;
- 2) A brief description of any settled or closed legal actions or claims against the Offeror over the past five (5) years;
- 3) A description of any judgments against the Offeror within the past five (5) years, including the court, case name, complaint number, and a brief description of the final ruling or determination; and
- 4) In instances where litigation is ongoing, and the Offeror has been directed not to disclose information by the court, provide the name of the judge and location of the court.

**O. Economic Benefit Factors (Submit under TAB N)**

- 1) The Offeror shall submit with its Proposal a narrative describing benefits that will accrue to the Maryland economy as a direct or indirect result of its performance of the Contract. Proposals will be evaluated to assess the benefit to Maryland's economy specifically offered. The economic benefit offered should be consistent with the Offeror's Total Proposal Price from **Attachment B**, the Financial Proposal Form. See COMAR 21.05.03.03A (3).
- 2) Proposals that identify specific benefits as being contractually enforceable commitments will be rated more favorably than Proposals that do not identify specific benefits as contractual commitments, all other factors being equal.
- 3) Offerors shall identify any performance guarantees that will be enforceable by the State if the full level of promised benefit is not achieved during the Contract term.

- 4) As applicable, for the full duration of the Contract, including any renewal period, or until the commitment is satisfied, the Contractor shall provide to the Procurement Officer or other designated agency personnel reports of the actual attainment of each benefit listed in response to this section. These benefit attainment reports shall be provided quarterly, unless elsewhere in these specifications a different reporting frequency is stated.
- 5) In responding to this section, the following do not generally constitute economic benefits to be derived from the Contract:
  - a) generic statements that the State will benefit from the Offeror's superior performance under the Contract;
  - b) descriptions of the number of Offeror employees located in Maryland other than those that will be performing work under the Contract; or
  - c) tax revenues from Maryland-based employees or locations, other than those that will be performing, or used to perform, work under the Contract.
- 6) Discussion of Maryland-based employees or locations may be appropriate if the Offeror makes some projection or guarantee of increased or retained presence based upon being awarded the Contract.
- 7) Examples of economic benefits to be derived from a contract may include any of the following. For each factor identified below, identify the specific benefit and contractual commitments and provide a breakdown of expenditures in that category:
  - a) The Contract dollars to be recycled into Maryland's economy in support of the Contract, through the use of Maryland Subcontractors, suppliers and joint venture partners. **Do not include actual fees or rates paid to Subcontractors or information from your Financial Proposal;**
  - b) The number and types of jobs for Maryland residents resulting from the Contract. Indicate job classifications, number of employees in each classification and the aggregate payroll to which the Offeror has committed, including contractual commitments at both prime and, if applicable, subcontract levels; and whether Maryland employees working at least 30 hours per week and are employed at least 120 days during a 12-month period will receive paid leave. If no new positions or subcontracts are anticipated as a result of the Contract, so state explicitly;
  - c) Tax revenues to be generated for Maryland and its political subdivisions as a result of the Contract. Indicate tax category (sales taxes, payroll taxes, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the Contract;
  - d) Subcontract dollars committed to Maryland small businesses and MBEs; and
  - e) Other benefits to the Maryland economy which the Offeror promises will result from awarding the Contract to the Offeror, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from, or because of the Contract award. Offerors may commit to benefits that are not directly attributable to the Contract, but for which the Contract award may serve as a catalyst or impetus.

P. Technical Proposal - Required Forms and Certifications (Submit under TAB O)

- 1) All forms required for the Technical Proposal are identified in Table 1 of **Section 7** – RFP Attachments and Appendices. Unless directed otherwise by instructions within an individual form, complete, sign, and include all required forms in the Technical Proposal, under TAB O.
- 2) Offerors shall furnish any and all agreements and terms and conditions the Offeror expects the State to sign or to be subject to in connection with or in order to use the Offeror's services under this Contract. This includes physical copies of all agreements referenced and incorporated in primary documents, including but not limited to any software licensing agreement for any software proposed to be licensed to the State under this Contract (e.g., EULA, Enterprise License Agreements, Professional Service agreement, Master Agreement) and any AUP. The State does not agree to terms and conditions not provided in an Offeror's Technical Proposal and no action of the State, including but not limited to the use of any such software, shall be deemed to constitute acceptance of any such terms and conditions. Failure to comply with this section renders any such agreement unenforceable against the State.
- 3) For each service, hardware or software proposed as furnished by a third-party entity, Offeror must identify the third-party provider and provide a letter of authorization or such other documentation demonstrating the authorization for such services. In the case of an open source license, authorization for the open source shall demonstrate compliance with the open source license.
- 4) A Letter of Authorization shall be on letterhead or through the provider's e-mail. Further, each Letter of Authorization shall be less than twelve (12) months old and must provide the following information:
  - i) Third-party POC name and alternate for verification
  - ii) Third-party POC mailing address
  - iii) Third-party POC telephone number
  - iv) Third-party POC email address
  - v) If available, a Re-Seller Identifier

## **5.4 Volume II – Financial Proposal**

The Financial Proposal shall contain all price information in the format specified in **Attachment B**. The Offeror shall complete the Financial Proposal Form only as provided in the Financial Proposal Instructions and the Financial Proposal Form itself. Do not amend, alter, or leave blank any items on the Financial Proposal Form or include additional clarifying or contingent language on or attached to the Financial Proposal Form. Failure to adhere to any of these instructions may result in the Proposal being determined to be not reasonably susceptible of being selected for award and rejected by the Department.

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## 6 Evaluation and Selection Process

### 6.1 Evaluation Committee

Evaluation of Proposals will be performed in accordance with COMAR 21.05.03 by a committee established for that purpose and based on the evaluation criteria set forth below. The Evaluation Committee will review Proposals, participate in Offeror oral presentations and discussions, and provide input to the Procurement Officer. The Department reserves the right to utilize the services of individuals outside of the established Evaluation Committee for advice and assistance, as deemed appropriate.

During the evaluation process, the Procurement Officer may determine at any time that a particular Offeror is not susceptible for award.

### 6.2 Technical Proposal Evaluation Criteria

The criteria to be used to evaluate each Technical Proposal are listed below in descending order of importance. Unless stated otherwise, any sub-criteria within each criterion have equal weight.

#### 6.2.1 Offeror's Technical Response to Requirements and Work Plan (See RFP § 5.3.2.F), including but not limited to the following considerations:

The State prefers the Offeror's Technical Proposal to illustrate a comprehensive understanding of work requirements and mastery of the subject matter, including an explanation of how the work will be performed. Proposals which include limited responses to work requirements such as "concur" or "will comply" will receive a lower ranking than those Proposals that demonstrate an understanding of the work requirements and include plans to meet or exceed them.

- A. To what extent does the proposal work plan succeed in meeting the requirements and time frames of the RFP? Are the proposed time frames realistic? Are deliverable deadlines recognized as deadlines?
- B. How sound is the methodology used to carry out the work plan?
- C. Is there an outline of the management concepts employed by the offeror? How realistic is the outline?
- D. Is there a project management plan that includes project control mechanisms? How sound is the plan?
- E. Is there a process to monitor contract deliverables? How sound is this process?

#### 6.2.2 Experience and Qualifications of Proposed Staff (See RFP § 5.3.2.G), including but not limited to the following considerations:

- A. How well are the named individuals properly matched to this project with respect to their past work experience and credentials?
- B. How much actual experience does each staff person have that is applicable to this project?
- C. Is the proposed staffing pattern adequate to performing the services to be performed?
- D. How experienced are the named individuals in working with large scale school-based paper and pencil surveys?

#### 6.2.3 Offeror Qualifications and Capabilities, including proposed Subcontractors (See RFP § 5.3.2.H and 5.3.2 I), including but not limited to the following considerations:

- A. To what extent has the organization demonstrated a commitment to providing quality services?
- B. Based on the description given in this proposal, what are the overall capabilities of the offeror as related to the requirements in the RFP, i.e., size and type of staff, finances, experience, etc.?
- C. Are there any conflicts of interest, financial or legal issues to be resolved?



- D. What has the experience of other state, federal, or private companies and agencies been when contracting with this vendor?
  - E. How much experience do the proposed Subcontractors have for this type of project?
- 6.2.4 Economic Benefit to State of Maryland (See RFP § 5.3.2.O), including but not limited to the following considerations:
- A. Is the percentage of contract dollars to be recycled into Maryland's economy adequate, above average, or exceptional?
  - B. How many and what types of jobs for Maryland residents will be created? What collateral job creation or retention may result from an award to this offeror?
  - C. Is the estimated percentage of dollars committed to small or minority businesses substantial or inconsequential?
  - D. How much tax revenue is anticipated for the State and local subdivisions, etc.?

### 6.3 Financial Proposal Evaluation Criteria

All Qualified Offerors (see **Section 6.5.2.D**) will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the Total Proposal Price within the stated guidelines set forth in this RFP and as submitted on **Attachment B** - Financial Proposal Form.

### 6.4 Reciprocal Preference

- 6.4.1 Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. COMAR 21.05.01.04 permits procuring agencies to apply a reciprocal preference under the following conditions:
- A. The Maryland resident business is a responsible Offeror;
  - B. The most advantageous Proposal is from a responsible Offeror whose principal office, or principal base of operations is in another state;
  - C. The other state gives a preference to its resident businesses through law, policy, or practice; and
  - D. The preference does not conflict with a federal law or grant affecting the procurement Contract.
- 6.4.2 The preference given shall be identical to the preference that the other state, through law, policy, or practice gives to its resident businesses.

### 6.5 Selection Procedures

#### 6.5.1 General

- A. The Contract will be awarded in accordance with the Competitive Sealed Proposals (CSP) method found at COMAR 21.05.03. The CSP method allows for the conducting of discussions and the revision of Proposals during these discussions. Therefore, the State may conduct discussions with all Offerors that have submitted Proposals that are determined to be reasonably susceptible of being selected for contract award or potentially so. However, the State reserves the right to make an award without holding discussions.
- B. With or without discussions, the State may determine the Offeror to be not responsible or the Offeror's Proposal to be not reasonably susceptible of being selected for award at any time after the initial closing date for receipt of Proposals and prior to Contract award.

### 6.5.2 Selection Process Sequence

- A. A determination is made that the MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) is included and is properly completed, if there is a MBE goal. In addition, a determination is made that the VSBE Utilization Affidavit and Subcontractor Participation Schedule (**Attachment E-1**) is included and is properly completed, if there is a VSBE goal.
- B. Technical Proposals are evaluated for technical merit and ranked. During this review, oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the State's requirements and the Offeror's ability to perform the services, as well as to facilitate arrival at a Contract that is most advantageous to the State. Offerors will be contacted by the State as soon as any discussions are scheduled.
- C. Offerors must confirm in writing any substantive oral clarifications of, or changes in, their Technical Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's Technical Proposal. Technical Proposals are given a final review and ranked.
- D. The Financial Proposal of each Qualified Offeror (a responsible Offeror determined to have submitted an acceptable Proposal) will be evaluated and ranked separately from the Technical evaluation. After a review of the Financial Proposals of Qualified Offerors, the Evaluation Committee or Procurement Officer may again conduct discussions to further evaluate the Offeror's entire Proposal.
- E. When in the best interest of the State, the Procurement Officer may permit Qualified Offerors to revise their initial Proposals and submit, in writing, Best and Final Offers (BAFOs). The State may make an award without issuing a request for a BAFO. **Offerors may only perform limited substitutions of proposed personnel as allowed in Section 3.11 (Substitution of Personnel).**

### 6.5.3 Award Determination

Upon completion of the Technical Proposal and Financial Proposal evaluations and rankings, each Offeror will receive an overall ranking. The Procurement Officer will recommend award of the Contract to the responsible Offeror that submitted the Proposal determined to be the most advantageous to the State. In making this most advantageous Proposal determination, technical factors will receive equal weight with financial factors.

## 6.6 Documents Required upon Notice of Recommendation for Contract Award

Upon receipt of a Notification of Recommendation for Contract award, the apparent awardee shall complete and furnish the documents and attestations as directed in Table 1 of **Section 7 – RFP Attachments and Appendices**.

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## 7 RFP ATTACHMENTS AND APPENDICES

### Instructions Page

A Proposal submitted by the Offeror must be accompanied by the completed forms and/or affidavits identified as “with Proposal” in the “When to Submit” column in Table 1 below. All forms and affidavits applicable to this RFP, including any applicable instructions and/or terms, are identified in the “Applies” and “Label” columns in Table 1.

For documents required as part of the Proposal:

4. For e-mail submissions, submit one (1) copy of each with signatures.
5. For paper submissions, submit two (2) copies of each with original signatures. All signatures must be clearly visible.

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete certain forms and affidavits after notification of recommended award. The list of forms and affidavits that must be provided is described in Table 1 below in the “When to Submit” column.

For documents required after award, submit three (3) copies of each document within the appropriate number of days after notification of recommended award, as listed in Table 1 below in the “When to Submit” column.

**Table 1: RFP ATTACHMENTS AND APPENDICES**

Applies?	When to Submit	Label	Attachment Name
Y	Before Proposal	A	Pre-Proposal Conference Response Form
Y	With Proposal	B	Financial Proposal Instructions and Form
Y	With Proposal	C	Bid/Proposal Affidavit (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf</a> )
Y	With Proposal	D	MBE Forms D-1A (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf</a> ) <b>IMPORTANT:</b> If this RFP contains different Functional Areas or Service Categories. A separate Attachment D-1A is to be submitted for each Functional Area or Service Category where there is a MBE goal.
Y	10 Business Days after recommended award	D	MBE Forms D-1B, D-1C, D-2, D-3A, D-3B (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf</a> )

Applies?	When to Submit	Label	Attachment Name
			<b>Important:</b> Attachment D-1C, if a waiver has been requested, is also required within 10 days of recommended award.
Y	With Proposal	E	<p>Veteran-Owned Small Business Enterprise (VSBE) Form E-1A (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf</a>)</p> <p><b>IMPORTANT:</b> If this RFP contains different Functional Areas or Service Categories. A separate Attachment E-1A is to be submitted for each Functional Area or Service Category where there is a VSBE goal.</p>
N	5 Business Days after recommended award	E	<p>VSBE Forms E-1B, E-2, E-3 (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf</a>)</p> <p><b>Important:</b> Attachment E-1B, if a waiver has been requested, is also required within 10 days of recommended award.</p>
Y	With Proposal	F	Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf</a> )
Y	With Proposal	H	Conflict of Interest Affidavit and Disclosure (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf</a> )

Y	5 Business Days after recommended award – However, suggested with Proposal	I	Non-Disclosure Agreement (Contractor) (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-I-Non-DisclosureAgreementContractor.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-I-Non-DisclosureAgreementContractor.pdf</a> )
Y	5 Business Days after recommended award	M	Sample Contract (included in this RFP)
Y	5 Business Days after recommended award	N	Contract Affidavit (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-N-ContractAffidavit.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-N-ContractAffidavit.pdf</a> )
Y	5 Business Days after recommended award	O	DHS Hiring Agreement (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-O-DHSHiringAgreement.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-O-DHSHiringAgreement.pdf</a> )
<b>Appendices</b>			
<b>Applies?</b>	<b>When to Submit</b>	<b>Label</b>	<b>Attachment Name</b>
Y	n/a	1	Abbreviations and Definitions (included in this RFP)
Y	With Proposal	2	Offeror Information Sheet (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf</a> )
Y	Before Proposal, as directed in the RFP.	3	Non-Disclosure Agreement (Offeror) (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-3-Non-Disclosure-Agreement-Offeror-1.dotx">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-3-Non-Disclosure-Agreement-Offeror-1.dotx</a> )
N	n/a	N/A	Labor Categories (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-x-Labor-Categories.dotx">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-x-Labor-Categories.dotx</a> )
N	With Proposal	N/A	Labor Resume Form (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-xx-Labor-Resume-Form.dotx">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-xx-Labor-Resume-Form.dotx</a> )
N	5 Business Days after recommended award	N/A	Performance Bond (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-z-Performance-Bond.dotx">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-z-Performance-Bond.dotx</a> )
N	5 Business Days after recommended award	N/A	Payment Bond

			(see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-yy-Payment-Bond.dotx">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-yy-Payment-Bond.dotx</a> )
N	With Proposal	N/A	Proposal Bond (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-y-Bid_Proposal-Bond.dotx">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-y-Bid_Proposal-Bond.dotx</a> )
Additional Submissions			
Applies?	When to Submit	Label	Document Name
Y	5 Business Days after recommended award		Evidence of meeting insurance requirements (see <b>Section 3.6</b> ); 1 copy
Y	10 Business Days after recommended award		PEP; 1 copy
Y	10 Business Days after recommended award		Fully executed Escrow Agreement; 1 copy

## Attachment A. Pre-Proposal Conference Response Form

### Solicitation Number OPASS 20-18471

Maryland Youth Risk Behavior Survey and Youth Tobacco Survey (YRBS/YTS) Pre-Proposal conference will be held at 1:00 PM Local Time on August 15<sup>th</sup>, 2019, at 201 W Preston St, RM L-3, Baltimore MD 21201.

Please return this form by August 12<sup>th</sup>, 2019, advising whether or not your firm plans to attend. The completed form should be returned via e-mail or fax to the Procurement Officer at the contact information below:

Nikardi Jallah  
MDH, Office of Procurement and Support Services  
E-mail : nikardi.jallah@maryland.gov  
Fax # : 410-333-5958

Please indicate:

\_\_\_\_\_ Yes, the following representatives will be in attendance.  
Attendees (Check the RFP for limits to the number of attendees allowed):  
1.  
2.  
3.  
\_\_\_\_\_ No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see RFP § 4.1 “Pre-Proposal conference”):

Offeror:

\_\_\_\_\_  
*Offeror Name (please print or type)*

By:

\_\_\_\_\_  
*Signature/Seal*

Printed Name:

\_\_\_\_\_  
*Printed Name*

Title:

\_\_\_\_\_  
*Title*

Date:

\_\_\_\_\_  
*Date*

Email/Contact Information:

### Directions to the Pre-Proposal Conference

## Attachment B. Financial Proposal Instructions & Form

### B-1 Financial Proposal Instructions

In order to assist Offerors in the preparation of their Financial Proposal and to comply with the requirements of this solicitation, Financial Proposal Instructions and a Financial Proposal Form have been prepared. Offerors shall submit their Financial Proposal on the Financial Proposal Form in accordance with the instructions on the Financial Proposal Form and as specified herein. Do not alter the Financial Proposal Form or the Proposal may be determined to be not reasonably susceptible of being selected for award. The Financial Proposal Form is to be signed and dated, where requested, by an individual who is authorized to bind the Offeror to the prices entered on the Financial Proposal Form.

The Financial Proposal Form is used to calculate the Offeror's TOTAL Proposal PRICE. Follow these instructions carefully when completing your Financial Proposal Form:

- A) All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., \$24.15. Make your decimal points clear and distinct.
- B) All Unit Prices must be the actual price per unit the State will pay for the specific item or service identified in this RFP and may not be contingent on any other factor or condition in any manner.
- C) All calculations shall be rounded to the nearest cent, e.g., .344 shall be .34 and .345 shall be .35.
- D) Any goods or services required through this RFP and proposed by the vendor at **No Cost to the State** must be clearly entered in the Unit Price, if appropriate, and Extended Price with **\$0.00**.
- E) Every blank in every Financial Proposal Form shall be filled in. Any changes or corrections made to the Financial Proposal Form by the Offeror prior to submission shall be initialed and dated.
- F) Except as instructed on the Financial Proposal Form, nothing shall be entered on or attached to the Financial Proposal Form that alters or proposes conditions or contingencies on the prices. Alterations and/or conditions may render the Proposal not reasonably susceptible of being selected for award.
- G) It is imperative that the prices included on the Financial Proposal Form have been entered correctly and calculated accurately by the Offeror and that the respective total prices agree with the entries on the Financial Proposal Form. Any incorrect entries or inaccurate calculations by the Offeror will be treated as provided in COMAR 21.05.03.03.F and may cause the Proposal to be rejected.
- H) If option years are included, Offerors must submit pricing for each option year. Any option to renew will be exercised at the sole discretion of the State and comply with all terms and conditions in force at the time the option is exercised. If exercised, the option period shall be for a period identified in the RFP at the prices entered in the Financial Proposal Form.
- I) All Financial Proposal prices entered below are to be fully loaded prices that include all costs/expenses associated with the provision of services as required by the RFP. The Financial Proposal price shall include, but is not limited to, all: labor, profit/overhead, general operating, administrative, and all other expenses and costs necessary to perform the work set forth in the solicitation. No other amounts will be paid to the Contractor. If labor rates are requested, those amounts shall be fully-loaded rates; no overtime amounts will be paid.
- J) Unless indicated elsewhere in the RFP, sample amounts used for calculations on the Financial Proposal Form are typically estimates for evaluation purposes only. Unless stated otherwise in the RFP, the Department does not guarantee a minimum or maximum number of units or usage in the performance of the Contract.
- K) Failure to adhere to any of these instructions may result in the Proposal being determined not reasonably susceptible of being selected for award.



### B-1 Financial Proposal Form

The Financial Proposal Form shall contain all price information in the format specified on these pages. Complete the Financial Proposal Form only as provided in the Financial Proposal Instructions. Do not amend, alter or leave blank any items on the Financial Proposal Form. If option years are included, Offerors must submit pricing for each option year. Failure to adhere to any of these instructions may result in the Proposal being determined not reasonably susceptible of being selected for award.

See separate Excel Financial Proposal Form labeled **Attachment B Financial Proposal Form Maryland YRBS\_YTS.xls**.

Submitted by:

Offeror:

---

Offeror Name (please print or type)

By:

---

Signature of Authorized Representative

Printed Name:

---

Printed Name

Title:

---

Title

Date:

---

Date

Address:

---

Company Address

<b>Attachment C.      Proposal Affidavit</b>
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See link at [http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid\\_Proposal-Affidavit.pdf](http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf).

<b>Attachment D.      Minority Business Enterprise (MBE) Forms</b>
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See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf>.

This solicitation includes a Minority Business Enterprise (MBE) participation goal of 25 percent and all of the following subgoals:

8% percent for African American-owned MBE firms;

4% percent for Asian American-owned MBE firms;

13% percent for Women-owned MBE firms.

<b>Attachment E.      Veteran-Owned Small Business Enterprise (VSBE) Forms</b>
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See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf>.

This solicitation includes a VSBE participation goal of 1%.

<b>Attachment F. Maryland Living Wage Affidavit of Agreement for Service Contracts</b>
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See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf> to complete the Affidavit.

- A. This contract is subject to the Living Wage requirements under Md. Code Ann., State Finance and Procurement Article, Title 18, and the regulations proposed by the Commissioner of Labor and Industry (Commissioner). The Living Wage generally applies to a Contractor or Subcontractor who performs work on a State contract for services that is valued at \$100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee's time during any work week on the State Contract.
- B. The Living Wage Law does not apply to:
  - (1) A Contractor who:
    - (a) Has a State contract for services valued at less than \$100,000, or
    - (b) Employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.
  - (2) A Subcontractor who:
    - (a) Performs work on a State contract for services valued at less than \$100,000,
    - (b) Employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
    - (c) Performs work for a Contractor not covered by the Living Wage Law as defined in B(1)(b) above, or B (3) or C below.
  - (3) Service contracts for the following:
    - (a) Services with a Public Service Company;
    - (b) Services with a nonprofit organization;
    - (c) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or
    - (d) Services between a Unit and a County or Baltimore City.
- C. If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.
- D. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent Contractor or assign work to employees to avoid the imposition of any of the requirements of Md. Code Ann., State Finance and Procurement Article, Title 18.
- E. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.

- F. The Commissioner shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.
- G. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in Md. Code Ann., State Finance and Procurement Article, §18-103(c), shall not lower an employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner.
- H. A Contractor/Subcontractor may reduce the wage rates paid under Md. Code Ann., State Finance and Procurement Article, §18-103(a), by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413.
- I. Under Md. Code Ann., State Finance and Procurement Article, Title 18, if the Commissioner determines that the Contractor/Subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/Subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.
- J. Information pertaining to reporting obligations may be found by going to the Division of Labor and Industry website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml> and clicking on Living Wage for State Service Contracts.

<b>Attachment G.      Federal Funds Attachments</b>
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This solicitation does not include a Federal Funds Attachment.

See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentG-FederalFundsAttachment.pdf>.

<b>Attachment H.      Conflict of Interest Affidavit and Disclosure</b>
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This solicitation does not require a Conflict of Interest Affidavit and Disclosure.



<b>Attachment I.      Non-Disclosure Agreement (Contractor)</b>
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This solicitation does not require a Non-Disclosure Agreement.

<b>Attachment J.      HIPAA Business Associate Agreement</b>
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This solicitation does not require a HIPAA Business Associate Agreement.

<b>Attachment K.      Mercury Affidavit</b>
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This solicitation does not include the procurement of products known to likely include mercury as a component.

<b>Attachment L.      Location of the Performance of Services Disclosure</b>
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This solicitation does not require a Location of the Performance of Services Disclosure.

## Attachment M. Contract

Maryland Department of Health, Center for Tobacco and Prevention Control  
“Maryland Youth Risk Behavior Survey and Youth Tobacco Survey (YRBS/YTS)”

OPASS 20-18471

THIS CONTRACT (the “Contract”) is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_ (the “Contractor”) and the STATE OF MARYLAND, acting through the Maryland Department of Health (“MDH” or the “Department”).

In consideration of the promises and the covenants herein contained, the adequacy and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

### 1. Definitions

In this Contract, the following words have the meanings indicated:

- 1.1 “COMAR” means Code of Maryland Regulations.
- 1.2 “Contractor” means the entity first named above whose principal business address is (Contractor’s primary address) and whose principal office in Maryland is (Contractor’s local address), whose Federal Employer Identification Number or Social Security Number is (Contractor’s FEIN), and whose eMaryland Marketplace vendor ID number is (eMM Number).
- 1.3 “Financial Proposal” means the Contractor’s Financial Proposal dated \_\_\_\_\_ (Financial Proposal date), as modified by any Best and Final Offer thereto.
- 1.4 Minority Business Enterprise (MBE) – Any legal entity certified as defined at COMAR 21.01.02.01B (54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- 1.5 “RFP” means the Request for Proposals for Maryland Youth Risk Behavior Survey and Youth Tobacco Survey (YRBS/YTS), Solicitation # OPASS 20-18471, and any amendments, addenda, and attachments thereto issued in writing by the State.
- 1.6 “State” means the State of Maryland.
- 1.7 “Technical Proposal” means the Contractor’s Technical Proposal dated. \_\_\_\_\_ (Technical Proposal date), as modified and supplemented by the Contractor’s responses to requests clarifications and requests for cure, and by any Best and Final Offer.
- 1.8 “Veteran-owned Small Business Enterprise” (VSBE) means A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.
- 1.9 Capitalized terms not defined herein shall be ascribed the meaning given to them in the RFP.

### 2. Scope of Contract

- 2.1 The Contractor shall perform in accordance with this Contract and Exhibits A-D, which are listed below and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall control. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The RFP

Exhibit B – The Contract Affidavit, executed by the Contractor and dated (date of Attachment C)

Exhibit C – The Technical Proposal

Exhibit D – The Financial Proposal

- 2.2 The Procurement Officer may, at any time, by written order, make unilateral changes in the work within the general scope of the Contract. No other order, statement, or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.
- 2.3 Without limiting the rights of the Procurement Officer under Section 2.2 above, the Contract may be modified by mutual agreement of the parties, provided: (a) the modification is made in writing; (b) all parties sign the modification; and (c) all approvals by the required agencies as described in COMAR Title 21, are obtained.

**3. Period of Performance**

- 3.1 The term of this Contract begins on the date the Contract is signed by the Department following any required prior approvals, including approval by the Board of Public Works, if such approval is required (the "Effective Date") and shall continue until June 30, 2026 ("Initial Term").
- 3.2 The Contractor's performance under the Contract shall commence as of the date provided in a written NTP.
- 3.3 The Contractor's obligation to pay invoices to Subcontractors providing products/services in connection with this Contract, as well as the audit; confidentiality; document retention; patents, copyrights & intellectual property; warranty; indemnification obligations; and limitations of liability under this Contract; and any other obligations specifically identified, shall survive expiration or termination of the Contract.

**4. Consideration and Payment**

- 4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the Department shall pay the Contractor in accordance with the terms of this Contract and at the prices quoted in the Financial Proposal. Unless properly modified (see above Section 2), payment to the Contractor pursuant to this Contract, including the Initial Term and any Renewal Term, shall not exceed the Contracted amount.

The total payment under a fixed price Contract or the fixed price element of a combined fixed price – time and materials Contract shall be the firm fixed price submitted by the Contractor in its Financial Proposal.

- 4.2 Unless a payment is unauthorized, deferred, delayed, or set-off under COMAR 21.02.07, payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the Department's receipt of a proper invoice from the Contractor as required by RFP section 3.3.

The Contractor may be eligible to receive late payment interest at the rate of 9% per annum if:

- (1) The Contractor submits an invoice for the late payment interest within thirty days after the date of the State's payment of the amount on which the interest accrued; and
- (2) A contract claim has not been filed under State Finance and Procurement Article, Title 15, Subtitle 2, Annotated Code of Maryland.

The State is not liable for interest:

- (1) Accruing more than one year after the 31st day after the agency receives the proper invoice; or
- (2) On any amount representing unpaid interest. Charges for late payment of invoices are authorized only as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable.

Final payment under this Contract will not be made until after certification is received from the Comptroller of the State that all taxes have been paid.

Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.

- 4.3 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.
- 4.4 Payment of an invoice by the Department is not evidence that services were rendered as required under this Contract.

## **5. Rights to Records**

- 5.1 The Contractor agrees that all documents and materials including, but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations, and data prepared by the Contractor for purposes of this Contract shall be the sole property of the State and shall be available to the State at any time. The State shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.
- 5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a Deliverable under this Contract (as defined in **Section 7.2**), and services performed under this Contract shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created as a Deliverable under this Contract are not works made for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.
- 5.3 The Contractor shall report to the Contract Monitor, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Contract.

- 5.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the State hereunder and if such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such warnings.
- 5.5 Upon termination or expiration of the Contract, the Contractor, at its own expense, shall deliver any equipment, software or other property provided by the State to the place designated by the Procurement Officer.

## **6. Exclusive Use**

- 6.1 The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the State shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the State.
- 6.2 Except as may otherwise be set forth in this Contract, Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by the Department or developed by Contractor relating to the Contract, except as provided for in **Section 8. Confidential or Proprietary Information and Documentation**.

## **7. Patents, Copyrights, and Intellectual Property**

- 7.1. All copyrights, patents, trademarks, trade secrets, and any other intellectual property rights existing prior to the Effective Date of this Contract shall belong to the party that owned such rights immediately prior to the Effective Date (“Pre-Existing Intellectual Property”). If any design, device, material, process, or other item provided by Contractor is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items pursuant to its rights granted under the Contract.
- 7.2 Except for (1) information created or otherwise owned by the Department or licensed by the Department from third parties, including all information provided by the Department to Contractor; (2) materials created by Contractor and/or its Subcontractor(s) specifically for the State under the Contract (“Deliverables”), except for any Contractor Pre-Existing Intellectual Property included therein; and (3) the license rights granted to the State, all right, title, and interest in the intellectual property embodied in the solution, including the know-how and methods by which the solution is provided and the processes that make up the solution, will belong solely and exclusively to Contractor and its licensors, and the Department will have no rights to the same except as expressly granted in this Contract. Any SaaS Software developed by Contractor during the performance of the Contract will belong solely and exclusively to Contractor and its licensors. For all Software provided by the Contractor under the Contract, Contractor hereby grants to the State a nonexclusive, irrevocable, unlimited, perpetual, non-cancelable, and non-terminable right to use and make copies of the Software and any modifications to the Software. For all Contractor Pre-Existing Intellectual Property embedded in any Deliverables, Contractor grants to the State a license to use such Contractor Pre-Existing Intellectual Property in connection with its permitted use of such Deliverable. During the period between delivery of a Deliverable by Contractor and the date of payment therefor by the State in accordance with this Contract (including throughout the duration of any payment dispute discussions), subject to the terms and conditions contained herein, Contractor grants the State a royalty-free, non-exclusive, limited license to use such Deliverable and to use any Contractor Materials contained therein in accordance with this Contract.
- 7.3. Subject to the terms of **Section 10**, Contractor shall defend, indemnify and hold harmless the State and its agents and employees, from and against any and all claims, costs, losses, damages, liabilities,



judgments and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with any third party claim that the Contractor-provided products/services infringe, misappropriate or otherwise violate any third party intellectual property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent.

- 7.4 Without limiting Contractor's obligations under Section 5.3, if an infringement claim occurs, or if the State or the Contractor believes such a claim is likely to occur, Contractor (after consultation with the State and at no cost to the State): (a) shall procure for the State the right to continue using the allegedly infringing component or service in accordance with its rights under this Contract; or (b) replace or modify the allegedly infringing component or service so that it becomes non-infringing and remains compliant with all applicable specifications.
- 7.5 Except as otherwise provided herein, Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, Software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a separate writing executed by the Contractor and an authorized representative of the State as well as all required State approvals.
- 7.6 Without limiting the generality of the foregoing, neither Contractor nor any of its Subcontractors shall use any Software or technology in a manner that will cause any patents, copyrights or other intellectual property which are owned or controlled by the State or any of its affiliates (or for which the State or any of its Subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third party or open source license (including, without limitation, any open source license listed on <http://www.opensource.org/licenses/alphabetical>) (each an "Open Source License"). These restrictions, limitations, exclusions and conditions shall apply even if the State or any of its Subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the State or any of its Subcontractors that is undertaken under this Contract as to any Software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled by the State (or for which the State has received license rights) to become subject to any encumbrance or terms and conditions of any open source license.
- 7.7 The Contractor shall report to the Department, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Deliverables delivered under this Contract.
- 7.8 The Contractor shall not affix (or permit any third party to affix), without the Department's consent, any restrictive markings upon any Deliverables that are owned by the State, and if such markings are affixed, the Department shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

## **8. Confidential or Proprietary Information and Documentation**

- 8.1 Subject to the Maryland Public Information Act and any other applicable laws including, without limitation, HIPAA, the HI-TECH Act, and the Maryland Medical Records Act and regulations promulgated pursuant thereto, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems or cloud infrastructure, if applicable) shall be held in confidence by the other party. Each party shall, however, be permitted to disclose, as provided by and consistent with applicable law, relevant confidential information to its officers, agents, and Contractor

Personnel to the extent that such disclosure is necessary for the performance of their duties under this Contract. Each officer, agent, and Contractor Personnel to whom any of the State's confidential information is to be disclosed shall be advised by Contractor provided that each officer, agent, and Contractor Personnel to whom any of the State's confidential information is to be disclosed shall be advised by Contractor of the obligations hereunder, and bound by, confidentiality at least as restrictive as those of set forth in this Contract.

- 8.2 The provisions of this section shall not apply to information that: (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already rightfully in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

## **9. Loss of Data**

- 9.1 In the event of loss of any State data or records where such loss is due to the act or omission of the Contractor or any of its Subcontractors or agents, the Contractor shall be responsible for restoring or recreating, as applicable, such lost data in the manner and on the schedule set by the Contract Monitor. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. At no time shall any Contractor actions (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms, and applications with which the Contractor is working hereunder.
- 9.2 In accordance with prevailing federal or state law or regulations, the Contractor shall report the loss of non-public data as directed in **RFP Section 3.7**.
- 9.3 Protection of data and personal privacy (as further described and defined in RFP Section 3.8) shall be an integral part of the business activities of the Contractor to ensure there is no inappropriate or unauthorized use of State information at any time. To this end, the Contractor shall safeguard the confidentiality, integrity and availability of State information and comply with the conditions identified in **RFP Section 3.7**.

## **10. Indemnification and Notification of Legal Requests**

- 10.1. At its sole cost and expense, Contractor shall (i) indemnify and hold the State, its employees and agents harmless from and against any and all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs and expenses (including but not limited to attorneys' fees and costs), whether or not involving a third party claim, which arise out of or relate to the Contractor's, or any of its Subcontractors', performance of this Contract and (ii) cooperate, assist, and consult with the State in the defense or investigation of any such claim, demand, action or suit. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent.
- 10.2. The State has no obligation: (i) to provide legal counsel or defense to the Contractor and/or its Subcontractor(s) in the event that a suit, claim or action of any character is brought against the Contractor and/or its Subcontractor(s) as a result of or relating to the Contractor's obligations or performance under this Contract, or (ii) to pay any judgment or settlement of any such suit, claim or action. Notwithstanding the foregoing, the Contractor shall promptly notify the Procurement Officer of any such claims, demands, actions, or suits.
- 10.3. Notification of Legal Requests. In the event the Contractor receives a subpoena or other validly issued administrative or judicial process, or any discovery request in connection with any litigation, requesting State Pre-Existing Intellectual Property, of other information considered to be the property of the State, including but not limited to State data stored with or otherwise accessible by

the Contractor, the Contractor shall not respond to such subpoena, process or other legal request without first notifying the State, unless prohibited by law from providing such notice. The Contractor shall promptly notify the State of such receipt providing the State with a reasonable opportunity to intervene in the proceeding before the time that Contractor is required to comply with such subpoena, other process or discovery request. .

#### **11. Non-Hiring of Employees**

No official or employee of the State, as defined under Md. Code Ann., General Provisions Article, § 5-101, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the State, become or be an employee of the Contractor or any entity that is a Subcontractor on this Contract.

#### **12. Disputes**

This Contract shall be subject to the provisions of Md. Code Ann., State Finance and Procurement Article, Title 15, Subtitle 2, and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision. Unless a lesser period is provided by applicable statute, regulation, or the Contract, the Contractor must file a written notice of claim with the Procurement Officer within thirty (30) days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within thirty (30) days of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

#### **13. Maryland Law Prevails**

- 13.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.
- 13.2 The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland) does not apply to this Contract or any purchase order, task order, or Notice to Proceed issued thereunder, or any software, or any software license acquired hereunder.
- 13.3 Any and all references to the Maryland Code, annotated and contained in this Contract shall be construed to refer to such Code sections as are from time to time amended.

#### **14. Nondiscrimination in Employment**

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry, genetic information, or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause Subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

#### **15. Contingent Fee Prohibition**

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial

selling agency working for the Contractor to solicit or secure the Contract, and that the Contractor has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of this Contract.

#### **16. Non-Availability of Funding**

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

#### **17. Termination for Default**

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

#### **18. Termination for Convenience**

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A (2).

#### **19. Delays and Extensions of Time**

- 19.1 The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.
- 19.2 Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of Subcontractors or

suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the Subcontractors or suppliers.

**20. Suspension of Work**

The State unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the State.

**21. Pre-Existing Regulations**

In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR 21) in effect on the date of execution of this Contract are applicable to this Contract.

**22. Financial Disclosure**

The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State or its agencies during a calendar year under which the business is to receive in the aggregate, \$100,000 or more, shall within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

**23. Political Contribution Disclosure**

The Contractor shall comply with Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31. Additional information is available on the State Board of Elections website:

[http://www.elections.state.md.us/campaign\\_finance/index.html](http://www.elections.state.md.us/campaign_finance/index.html).

**24. Retention of Records**

The Contractor and Subcontractors shall retain and maintain all records and documents in any way relating to this Contract for (i) three (3) years after final payment by the State hereunder, or (ii) any applicable federal or State retention requirements (such as HIPAA) or condition of award, , whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, as designated by the Procurement Officer, at all reasonable times. The Contractor shall provide copies of all documents requested by the State, including, but not limited to itemized billing documentation containing the dates, hours spent and work performed by the Contractor and its Subcontractors under the Contract. All records related in any way to the Contract are to be retained for the entire time provided under this section.

## **25. Right to Audit**

- 25.1 The State reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor's performance under this Contract. An audit is defined as a planned and documented independent activity performed by qualified personnel, including but not limited to State and federal auditors, to determine by investigation, examination, or evaluation of objective evidence from data, statements, records, operations and performance practices (financial or otherwise) the Contractor's compliance with the Contract, including but not limited to adequacy and compliance with established procedures and internal controls over the services performed pursuant to the Contract.
- 25.2 Upon three (3) Business Days' notice, the State shall be provided reasonable access to Contractor's records to perform any such audits. The Department may conduct these audits with any or all of its own internal resources or by securing the services of a third-party accounting or audit firm, solely at the Department's election. The Department may copy any record related to the services performed pursuant to the Contract. The Contractor agrees to fully cooperate and assist in any audit conducted by or on behalf of the State, including, by way of example only, making records and employees available as, where, and to the extent requested by the State and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance.
- 25.3 The right to audit shall include any of the Contractor's Subcontractors including but not limited to any lower tier Subcontractor(s). The Contractor shall ensure the Department has the right to audit such Subcontractor(s).

## **26. Compliance with Laws**

The Contractor hereby represents and warrants that:

- a. It is qualified to do business in the State and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- b. It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the Term;
- c. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- d. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

## **27. Cost and Price Certification**

- 27.1 The Contractor, by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as of the date of its Proposal.
- 27.2 The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date of its Proposal, was inaccurate, incomplete, or not current.

## **28. Subcontracting; Assignment**

The Contractor may not subcontract any of its obligations under this Contract without obtaining the prior written approval of the Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer, each at the State's sole and absolute discretion; provided, however, that a Contractor may

assign monies receivable under a contract after written notice to the State. Any subcontracts shall include such language as may be required in various clauses contained within this Contract, exhibits, and attachments. The Contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. The State shall not be responsible for fulfillment of the Contractor's obligations to its Subcontractors.

## **29. Limitations of Liability**

- 29.1 Contractor shall be liable for any loss or damage to the State occasioned by the acts or omissions of Contractor, its Subcontractors, agents or employees as follows:
- (a) For infringement of patents, trademarks, trade secrets and copyrights as provided in **Section 5 "Patents, Copyrights, Intellectual Property"** of this Contract;
  - (b) Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and
  - (c) For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract and regardless of the basis on which the claim is made, Contractor's liability shall be unlimited.
  - (d) In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that all Subcontractors shall be held to be agents of Contractor.
- 29.2 Contractor's indemnification obligations for Third party claims arising under Section 6 ("Indemnification") of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor's indemnification liability for third party claims arising under Section 6 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 6.
- 29.3. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that it is responsible for performance of the services and compliance with the relevant obligations hereunder by its Subcontractors.

## **30. Commercial Nondiscrimination**

- 30.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry, national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual's refusal to submit to a genetic test or make available the results of a genetic test or on the basis of disability, or otherwise unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of Subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for Subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.
- 30.3 As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and

Procurement Article of the Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all Subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions.

- 30.4 The Contractor shall include the language from 30.1, or similar clause approved in writing by the Department, in all subcontracts.

### **31. Prompt Pay Requirements**

- 31.1 If the Contractor withholds payment of an undisputed amount to its Subcontractor, the Department, at its option and in its sole discretion, may take one or more of the following actions:
- (a) Not process further payments to the Contractor until payment to the Subcontractor is verified;
  - (b) Suspend all or some of the Contract work without affecting the completion date(s) for the Contract work;
  - (c) Pay or cause payment of the undisputed amount to the Subcontractor from monies otherwise due or that may become due to the Contractor;
  - (d) Place a payment for an undisputed amount in an interest-bearing escrow account; or
  - (e) Take other or further actions as appropriate to resolve the withheld payment.
- 31.2 An “undisputed amount” means an amount owed by the Contractor to a Subcontractor for which there is no good faith dispute. Such “undisputed amounts” include, without limitation: (a) retainage which had been withheld and is, by the terms of the agreement between the Contractor and Subcontractor, due to be distributed to the Subcontractor; and (b) an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- 31.3 An act, failure to act, or decision of a Procurement Officer or a representative of the Department concerning a withheld payment between the Contractor and a Subcontractor under this **section 31**, may not:
- (a) Affect the rights of the contracting parties under any other provision of law;
  - (b) Be used as evidence on the merits of a dispute between the Department and the Contractor in any other proceeding; or
  - (c) Result in liability against or prejudice the rights of the Department.
- 31.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to Subcontractors that have contracted pursuant to the MBE program.
- 31.5 To ensure compliance with certified MBE subcontract participation goals, the Department may, consistent with COMAR 21.11.03.13, take the following measures:



- (a) Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule. This verification may include, as appropriate:
  - i. Inspecting any relevant records of the Contractor;
  - ii. Inspecting the jobsite; and
  - iii. Interviewing Subcontractors and workers.

Verification shall include a review of:

  - i. The Contractor's monthly report listing unpaid invoices over thirty (30) days old from certified MBE Subcontractors and the reason for nonpayment; and
  - ii. The monthly report of each certified MBE Subcontractor, which lists payments received from the Contractor in the preceding thirty (30) days and invoices for which the Subcontractor has not been paid.
- (b) If the Department determines that the Contractor is not in compliance with certified MBE participation goals, then the Department will notify the Contractor in writing of its findings and will require the Contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the Contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.
- (c) If the Department determines that the Contractor is in material noncompliance with MBE Contract provisions and refuses or fails to take the corrective action that the Department requires, then the Department may:
  - i. Terminate the Contract;
  - ii. Refer the matter to the Office of the Attorney General for appropriate action; or
  - iii. Initiate any other specific remedy identified by the Contract, including the contractual remedies required by any applicable laws, regulations, and directives regarding the payment of undisputed amounts.
- (d) Upon completion of the Contract, but before final payment or release of retainage or both, the Contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from, MBE Subcontractors.

### **32. Living Wage**

If a Contractor subject to the Living Wage law fails to submit all records required under COMAR 21.11.10.05 to the Commissioner of Labor and Industry at the Department of Labor, Licensing and Regulation, the Department may withhold payment of any invoice or retainage. The Department may require certification from the Commissioner on a quarterly basis that such records were properly submitted.

### **33. Use of Estimated Quantities**

Unless specifically indicated otherwise in the State's solicitation or other controlling documents related to the Scope of Work, any sample amounts provided are estimates only and the Department does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.

### **34. Risk of Loss; Transfer of Title**

Risk of loss for conforming supplies, equipment, materials and Deliverables furnished to the State hereunder shall remain with the Contractor until such supplies, equipment, materials and Deliverables are received and accepted by the State, following which, title shall pass to the State.

### **35. Effect of Contractor Bankruptcy**

All rights and licenses granted by the Contractor under this Contract are and shall be deemed to be rights and licenses to “intellectual property,” and the subject matter of this Contract, including services, is and shall be deemed to be “embodiments of intellectual property” for purposes of and as such terms are used and interpreted under § 365(n) of the United States Bankruptcy Code (“Code”) (11 U.S.C. § 365(n) (2010)). The State has the right to exercise all rights and elections under the Code and all other applicable bankruptcy, insolvency and similar laws with respect to this Contract (including all executory statement of works). Without limiting the generality of the foregoing, if the Contractor or its estate becomes subject to any bankruptcy or similar proceeding: (a) subject to the State’s rights of election, all rights and licenses granted to the State under this Contract shall continue subject to the respective terms and conditions of this Contract; and (b) the State shall be entitled to a complete duplicate of (or complete access to, as appropriate) all such intellectual property and embodiments of intellectual property, and the same, if not already in the State’s possession, shall be promptly delivered to the State, unless the Contractor elects to and does in fact continue to perform all of its obligations under this Contract.

### **36. Miscellaneous**

- 36.1 Any provision of this Contract which contemplates performance or observance subsequent to any termination or expiration of this Contract shall survive termination or expiration of this Contract and continue in full force and effect.
- 36.2 If any term contained in this Contract is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this Contract, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.
- 36.3 The headings of the sections contained in this Contract are for convenience only and shall not be deemed to control or affect the meaning or construction of any provision of this Contract.
- 36.4 This Contract may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Signatures provided by facsimile or other electronic means, e.g, and not by way of limitation, in Adobe .PDF sent by electronic mail, shall be deemed to be original signatures.

### **37. Contract Monitor and Procurement Officer**

- 37.1 The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor’s responsibilities. The Department may change the Contract Monitor at any time by written notice to the Contractor.
- 37.2 The Procurement Officer has responsibilities as detailed in the Contract and is the only State representative who can authorize changes to the Contract. The Department may change the Procurement Officer at any time by written notice to the Contractor.

### **38. Notices**

All notices hereunder shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid, as follows:

If to the State:

Nikardi Jallah  
201 West Preston Street  
Baltimore, MD 21201  
Phone Number: 410-767-0568  
E-Mail: Nikardi.Jallah@Maryland.gov

With a copy to:

Dana Dembrow, Director of Procurement  
Maryland Department of Health (MDH)  
201 West Preston Street RM 416  
Baltimore, MD 21201  
Phone Number: 410-767-0974  
E-Mail: MDH.solicitationquestions@maryland.gov

If to the Contractor:

(Contractor's Name)  
(Contractor's primary address)  
Attn: \_\_\_\_\_

[[Delete the following if a parent company guarantee is inapplicable:]]

Parent Company Guarantor

Contact: \_\_\_\_\_  
Attn: \_\_\_\_\_

### **39. Liquidated Damages for MBE**

- 39.1 The Contract requires the Contractor to comply in good faith with the MBE Program and Contract provisions. The State and the Contractor acknowledge and agree that the State will incur damages, including but not limited to loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources, if the Contractor does not comply in good faith with the requirements of the MBE Program and MBE Contract provisions. The parties further acknowledge and agree that the damages the State might reasonably be anticipated to accrue as a result of such lack of compliance are difficult to ascertain with precision.
- 39.2 Therefore, upon issuance of a written determination by the State that the Contractor failed to comply in good faith with one or more of the specified MBE Program requirements or MBE Contract provisions, the Contractor shall pay liquidated damages to the State at the rates set forth below. The Contractor expressly agrees that the State may withhold payment on any invoices as a set-off against liquidated damages owed. The Contractor further agrees that for each specified violation, the agreed upon liquidated damages are reasonably proximate to the loss the State is anticipated to incur as a result of such violation.

- (a) Failure to submit each monthly payment report in full compliance with COMAR 21.11.03.13B (3): \$35 per day until the monthly report is submitted as required.
- (b) Failure to include in its agreements with MBE Subcontractors a provision requiring submission of payment reports in full compliance with COMAR 21.11.03.13B (4): \$90 per MBE Subcontractor.
- (c) Failure to comply with COMAR 21.11.03.12 in terminating, canceling, or changing the scope of work/value of a contract with an MBE Subcontractor and amendment of the MBE participation schedule: the difference between the dollar value of the MBE participation commitment on the MBE participation schedule for that specific MBE firm and the dollar value of the work performed by that MBE firm for the Contract.
- (d) Failure to meet the Contractor's total MBE participation goal and sub goal commitments: the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved.
- (e) Failure to promptly pay all undisputed amounts to an MBE Subcontractor in full compliance with the prompt payment provisions of the Contract: \$100 per day until the undisputed amount due to the MBE Subcontractor is paid.

39.2 Notwithstanding the assessment or availability of liquidated damages, the State reserves the right to terminate the Contract and exercise any and all other rights or remedies which may be available under the Contract or Law.

#### **40. Parent Company Guarantee (If applicable)**

(Corporate name of Contractor's Parent Company) hereby guarantees absolutely the full, prompt, and complete performance by (Contractor) of all the terms, conditions and obligations contained in this Contract, as it may be amended from time to time, including any and all exhibits that are now or may become incorporated hereunto, and other obligations of every nature and kind that now or may in the future arise out of or in connection with this Contract, including any and all financial commitments, obligations, and liabilities. (Corporate name of Contractor's Parent Company) may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the State, which approval the State may grant, withhold, or qualify in its sole and absolute subjective discretion. (Corporate name of Contractor's Parent Company) further agrees that if the State brings any claim, action, lawsuit or proceeding against (Contractor), (Corporate name of Contractor's Parent Company) may be named as a party, in its capacity as Absolute Guarantor.

#### **42. Compliance with federal Health Insurance Portability and Accountability Act (HIPAA) and State Confidentiality Law**

HIPAA clauses do not apply to this Contract.

#### **43. Hiring Agreement**

- 43.1 The Contractor agrees to execute and comply with the enclosed Maryland Department of Human Services (DHS) Hiring Agreement (Attachment O). The Hiring Agreement is to be executed by the Offeror and delivered to the Procurement Officer within ten (10) Business Days following receipt of notice by the Offeror that it is being recommended for Contract award. The Hiring Agreement will become effective concurrently with the award of the Contract.
- 43.2 The Hiring Agreement provides that the Contractor and DHS will work cooperatively to promote hiring by the Contractor of qualified individuals for job openings resulting from this procurement, in accordance with Md. Code Ann., State Finance and Procurement Article §13-224.

**44. Limited English Proficiency**

The Contractor shall provide equal access to public services to individuals with limited English proficiency in compliance with Md. Code Ann., State Government Article, §§ 10-1101 et seq., and Policy Guidance issued by the Office of Civil Rights, Department of Health and Human Services, and MDH Policy 02.06.07.

SIGNATURES ON NEXT PAGE

IN WITNESS THEREOF, the parties have executed this Contract as of the date hereinabove set forth.

Contractor

State of Maryland

Maryland Department of Health (MDH)

By:

By: <<agencyContractSigner>>,  
<<agencyContractSignerTitle>>

Date

PARENT COMPANY (GUARANTOR) (if  
applicable)

By:

\_\_\_\_\_

\_\_\_\_\_

By:

Date

\_\_\_\_\_

Date

Approved for form and legal sufficiency  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

Assistant Attorney General

APPROVED BY BPW: \_\_\_\_\_

(Date)

(BPW Item #)

<b>Attachment N.      Contract Affidavit</b>
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See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-N-ContractAffidavit.pdf>.

<b>Attachment O.      DHS Hiring Agreement</b>
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This solicitation does not require a DHS Hiring Agreement.



<b>Attachment P.      Conflict of Interest Affidavit Services Performed for Tobacco Industry</b>
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**A. AUTHORIZED REPRESENTATIVE**

I HEREBY AFFIRM THAT: I am the [title] \_\_\_\_\_  
and the duly authorized representative of [name of business] \_\_\_\_\_  
\_\_\_\_\_ and that I possess the  
legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

**B. AFFIRMATION THAT NO PRIOR SERVICES HAVE BEEN PERFORMED FOR OR ON  
BEHALF OF THE TOBACCO INDUSTRY OR RELATED ENTITIES**

BY CHECKING THIS BOX ☐ I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101 (b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, or any of its employees has ever performed services directly or indirectly, for or on behalf of a tobacco product manufacturer, distributor, wholesaler, marketer, or any other entity which is part of the tobacco industry or related thereto.

**C. AFFIRMATION THAT SOME PRIOR SERVICES MAY HAVE BEEN PERFORMED FOR  
OR ON BEHALF OF THE TOBACCO INDUSTRY OR RELATED ENTITIES**

BY CHECKING THIS BOX ☐ I ACKNOWLEDGE THAT I AM UNABLE TO MAKE THE  
AFFIRMATION SET FORTH IN "B" ABOVE, AND IN ITS' PLACE, I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101 (b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, or any of its employees may have performed services in the past, either directly or indirectly, for or on behalf of a tobacco product manufacturer, distributor, wholesaler, marketer, or any other entity which is part of the tobacco industry or related thereto. To the best of my knowledge, information, and belief, and after due diligence in attempting to ascertain such knowledge and information, the listing of services performed for past and current tobacco industry or related entities which I have attached to this affidavit and make a part hereof by reference, constitutes the complete record of such services. I understand that this listing shall include for each instance of service, the following information: (1) dates services performed; (2) name of entity or person for which services were performed; (3) descriptive name of project or service provided; (4) brief description of services provided; (5) names of key personnel involved in delivering services; and (6) total remuneration received for providing such services. If ongoing services were provided as opposed to discrete projects, each calendar year during which such services were provided shall be treated as distinct projects. When any item of information is lacking, I understand that I shall so state in the listing and describe what attempts were made to find the missing information.

**D. AFFIRMATION THAT NO SERVICES WILL BE PERFORMED FOR THE TOBACCO  
INDUSTRY OR RELATED ENTITIES DURING THE TERM OF CONTRACT AWARD**

I FURTHER AFFIRM THAT:

Absent the express written consent of the Maryland Department of Health, neither I, the above business (as is defined in Section 16-101 (b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, or any of its employees will perform services either directly or indirectly for or on behalf of the tobacco industry or related entities during the term of any contract awarded as a result of this RFP or any extensions or renewals thereof.

#### **E. ACKNOWLEDGMENT**

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid or proposal shall be construed to supersede, amend, modify, or waive, on behalf of the State of Maryland or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms, and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: \_\_\_\_\_ By: \_\_\_\_\_

(Authorized Representative and Affiant)

\*Tobacco means any product that is intended for human inhalation, absorption, ingestion, heating, chewing, dissolving or any other manner of consumption that is made of, derived from, or contains tobacco or nicotine. Tobacco product includes: cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, snus, and electronic smoking devices (e-cigarettes, vapes, pod-based devices [e.g. JUUL], e-hookah, e-cigar, etc). Component parts and e-liquids, regardless of nicotine content, are also included.\*

## Attachment Q. Key Maryland and National Resources

### Maryland Resources

#### Maryland State Health and Education Departments

- Maryland Department of Health Center for Tobacco Prevention and Control (CTPC)  
[https://phpa.health.maryland.gov/ohpetup/pages/tob\\_home.aspx](https://phpa.health.maryland.gov/ohpetup/pages/tob_home.aspx)
- Maryland Department of Health Center for Chronic Disease Prevention and Control (CCDPC)  
[https://phpa.health.maryland.gov/CCDPC/Pages/ccdpc\\_home.aspx](https://phpa.health.maryland.gov/CCDPC/Pages/ccdpc_home.aspx)
- Maryland State Department of Education (MSDE), Division of Student Support, Academic Enrichment, and Educational Policy  
<http://marylandpublicschools.org/about/pages/dsfss/index.aspx>

#### Maryland State Statutes

- Article – Education – §7–420  
<http://mgaleg.maryland.gov/webmga/frmStatutesText.aspx?article=ged&section=7-420&ext=html&session=2019RS&tab=subject5>
- Article – Health – General – §13–1003 and §13–1004
  - <http://mgaleg.maryland.gov/webmga/frmStatutesText.aspx?article=ghg&section=13-1003&ext=html&session=2019RS&tab=subject5>
  - <http://mgaleg.maryland.gov/webmga/frmStatutesText.aspx?article=ghg&section=13-1004&ext=html&session=2019RS>

#### Data and Reports

- Maryland Youth Risk Behavior Survey and Youth Tobacco Survey Data  
<https://phpa.health.maryland.gov/ccdpc/Reports/Pages/YRBS-Main.aspx>
- Maryland Tobacco Control Program Legislative Report  
*Monitoring Changing Tobacco Use Behaviors: Maryland 2000 -2016.* Baltimore: Maryland Department of Health, Prevention and Health Promotion Administration, Cancer and Chronic Disease Bureau, Center for Tobacco Prevention and Control, May 2018.
  - *Full Legislative Report:* <https://phpa.health.maryland.gov/ohpetup/Documents/2000%20-%202016%20Legislative%20Report%20Monitoring%20Changing%20Tobacco%20Use%20Behaviors.pdf>
  - *Summary Report:* [https://phpa.health.maryland.gov/ohpetup/Documents/2000-2016%20Summary%20Report\\_Monitoring%20Changing%20Tobacco%20Use%20Behaviors.pdf](https://phpa.health.maryland.gov/ohpetup/Documents/2000-2016%20Summary%20Report_Monitoring%20Changing%20Tobacco%20Use%20Behaviors.pdf)

## **National Resources**

### **Centers for Disease Control and Prevention (CDC) Resources**

- CDC Department of Adolescent School Health (DASH)  
<https://www.cdc.gov/healthyyouth/about/index.htm>
- CDC Youth Tobacco Survey (YTS)  
[https://www.cdc.gov/tobacco/data\\_statistics/surveys/yts/index.htm](https://www.cdc.gov/tobacco/data_statistics/surveys/yts/index.htm)
- CDC Youth Risk Behavior Survey (YRBS)  
<https://www.cdc.gov/healthyyouth/data/yrbs/index.htm>
- CDC National Center for Chronic Disease Prevention and Health Promotion  
<https://www.cdc.gov/chronicdisease/index.htm>
- Centers for Disease Control and Prevention, Office on Smoking and Health  
<http://www.cdc.gov/tobacco/about/>

### **CDC Best Practices**

- ***Best Practices for Comprehensive Tobacco Control Programs – 2014.*** Centers for Disease Control and Prevention. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014.  
[http://www.cdc.gov/tobacco/stateandcommunity/best\\_practices/](http://www.cdc.gov/tobacco/stateandcommunity/best_practices/)

## Attachment R. Maryland YRBS/YTS Timeline

The following is an anticipated timeline for the Contract and three Survey Cycles. This timeline is for evaluation purposes and to assist with planning.

2020 YRBS/YTS Cycle (January 1, 2020- December 31, 2021)	
<u>TIME PERIODS</u>	<u>DELIVERABLES</u>
<b><i>Survey Cycle 1 Year 1</i></b>  January 1, 2020 - December 31, 2020	A. Kick-Off Meeting B. Submit final Work Plan for the cycle C. Create and design data materials and training materials D. Conduct District Coordinator trainings E. Designate and train Data Collectors F. Complete classroom selections for all selected schools G. Complete survey administration in all selected schools
<b><i>Survey Cycle 1 Year 2</i></b>  January 1, 2021 - December 31, 2021	A. Transmit all collected data to CDC's YRBS Data Agency B. Submit YRBS/YTS Administration Report to the Contract Monitor C. Conduct District Coordinator Interim Trainings D. Monitor CDC's YRBS Data Agency release of State and district-level data to the Department E. Submit draft Work Plan for next Survey Cycle F. Attend preliminary planning meetings for next Survey Cycle
2022 YRBS/YTS Cycle (January 1, 2022- December 31, 2023)	
<u>TIME PERIODS</u>	<u>DELIVERABLES</u>
<b><i>Survey Cycle 2 Year 1</i></b>  January 1, 2022 – December 31, 2022	A. Submit final Work Plan for the cycle B. Create and design data materials and training materials C. Conduct District Coordinator trainings D. Designate and train Data Collectors E. Complete classroom selections for all selected schools F. Complete survey administration in all selected schools
<b><i>Survey Cycle 2 Year 2</i></b>	A. Transmit all collected data to CDC's YRBS Data Agency B. Submit YRBS/YTS Administration Report to the Contract Monitor

January 1, 2023 – December 31, 2023	<ul style="list-style-type: none"> <li>C. Conduct District Coordinator Interim Trainings</li> <li>D. Monitor CDC’s YRBS Data Agency release of State and district-level data</li> <li>E. Submit draft Work Plan for next Survey Cycle</li> <li>F. Attend preliminary planning meetings for next Survey Cycle</li> </ul>
<b>2024 YRBS/YTS Cycle (January 1, 2024- June 30, 2026)</b>	
<b><u>TIME PERIODS</u></b>	<b><u>DELIVERABLES</u></b>
<b><i>Survey Cycle 3 Year 1</i></b>  January 1, 2024 – December 31, 2024	<ul style="list-style-type: none"> <li>A. Submit final Work Plan for the cycle</li> <li>B. Create and design data materials and training materials</li> <li>C. Conduct District Coordinator trainings</li> <li>D. Designate and train Data Collectors</li> <li>E. Complete classroom selections for all selected schools</li> <li>F. Complete survey administration in all selected schools</li> </ul>
<b><i>Survey Cycle 3 Year 2</i></b>  January 1, 2025 - June 30, 2026	<ul style="list-style-type: none"> <li>A. Transmit all collected data to CDC’s YRBS Data Agency</li> <li>B. Submit YRBS/YTS Administration Report to the Contract Monitor</li> <li>C. Conduct District Coordinator Interim Trainings</li> <li>D. Monitor CDC’s YRBS Data Agency release of State and district-level data to the Department</li> <li>E. Conduct Planning Meeting</li> <li>F. Preparation and planning for next Survey Cycle</li> <li>G. Create and design data materials</li> </ul>

## Appendix 1. – Abbreviations and Definitions

For purposes of this RFP, the following abbreviations or terms have the meanings indicated below:

- A. Acceptable Use Policy (AUP) - A written policy documenting constraints and practices that a user must agree to in order to access a private network or the Internet.
- B. Access – The ability or the means necessary to read, write, modify, or communicate data/information or otherwise use any information system resource.
- C. Application Program Interface (API) – Code that allows two software programs to communicate with each other.
- D. Business Day(s) – The official working days of the week to include Monday through Friday. Official working days excluding State Holidays (see definition of “Normal State Business Hours” below).
- E. CCDPC – Center for Chronic Disease Prevention and Control
- F. CDC – Centers for Disease Control and Prevention
- G. CDC DASH – Centers for Disease Control and Prevention Department of Adolescent and School Health
- H. CDC Data Agency – The person or entity performing technical assistance related to the administration and analysis of this survey and other similar state surveys on behalf of the CDC.
- I. COMAR – Code of Maryland Regulations available on-line at <http://www.dsd.state.md.us/COMAR/ComarHome.html>.
- J. Contract – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment M**.
- K. Contract Monitor – The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor’s responsibilities. The Department may change the Contract Monitor at any time by written notice to the Contractor.
- L. Contractor – The selected Offeror that is awarded a Contract by the State.
- M. Contractor Personnel – Employees and agents and Subcontractor employees and agents performing work at the direction of the Contractor under the terms of the Contract awarded from this RFP.
- N. CTPC – Center for Tobacco Prevention and Control
- O. Data Breach – The unauthorized acquisition, use, modification or disclosure of State data, or other Sensitive Data.
- P. Data Collector – Persons designated by the Contractor and/or its Subcontractor(s) to conduct and oversee administer the Maryland Youth Risk Behavior and Youth Tobacco Survey (YRBS/YTS) within classroom settings.

- Q. District Coordinator – Personnel appointed by each school system to manage Maryland YRBS/YTS survey administration within their Districts.
- R. eMM – eMaryland Marketplace (see RFP **Section 4.2**).
- S. Jurisdiction – There are 24 local political jurisdictions in Maryland, including 23 counties and Baltimore City.
- T. Key Personnel – All Contractor Personnel identified in the solicitation as such that are essential to the work being performed under the Contract such as the Project Director and Survey Manager. See RFP **Sections 3.10**.
- U. Local Time – Time in the Eastern Time Zone as observed by the State of Maryland. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such.
- V. MDH – Maryland Department of Health
- W. Minority Business Enterprise (MBE) – Any legal entity certified as defined at COMAR 21.01.02.01B (54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- X. MSDE – Maryland State Department of Education
- Y. Normal State Business Hours – Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: [www.dbm.maryland.gov](http://www.dbm.maryland.gov) – keyword: State Holidays.
- Z. Notice to Proceed (NTP) – A written notice from the Procurement Officer that work under the Contract, project, Task Order or Work Order (as applicable) is to begin as of a specified date. The NTP Date is the start date of work under the Contract, project, Task Order or Work Order. Additional NTPs may be issued by either the Procurement Officer or the Contract Monitor regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.
- AA. NTP Date – The date specified in a NTP for work on Contract, project, Task Order or Work Order to begin.
- BB. Offeror – An entity that submits a Proposal in response to this RFP.
- CC. Primary Data Analysis – The analysis of the raw Maryland YRBS/YTS data set. Primary data analysis is conducted by the CDC Data Agency. Primary data analysis does not fall under the scope of this contract.
- DD. Procurement Officer – Prior to the award of any Contract, the sole point of contact in the State for purposes of this solicitation. After Contract award, the Procurement Officer has responsibilities as detailed in the Contract (**Attachment M**) and is the only State representative who can authorize changes to the Contract. The Department may change the Procurement Officer at any time by written notice to the Contractor.
- EE. Proposal – As appropriate, either or both of the Offeror’s Technical or Financial Proposal.
- FF. Request for Proposals (RFP) – This Request for Proposals issued by the Maryland Department of Health (Department), with the Solicitation Number and date of issuance indicated in the Key Information Summary Sheet, including any amendments thereto.
- GG. School-Level Point of Contact (POC) – School appointed personnel tasked with being the contact person for their school during Maryland YRBS/YTS Administration.
- HH. State – The State of Maryland.



- II. Survey Cycle – Consists of two (2) calendar years and three (3) fiscal years. This Contract consists of three (3) Survey Cycles.
- JJ. Tobacco Product – Any product that is intended for human inhalation, absorption, ingestion, heating, chewing, dissolving or any other manner of consumption that is made of, derived from, or contains tobacco or nicotine. Tobacco product includes: cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, snus, and electronic smoking devices (e-cigarettes, vapes, pod-based devices [e.g, JUUL], e-hookah, e-cigar, etc). Component parts and e-liquids, regardless of nicotine content, are also included.
- KK. Total Proposal Price – The Offeror’s total price for goods and services in response to this solicitation, included in Financial Proposal **Attachment B** – Financial Proposal Form.
- LL. Veteran-owned Small Business Enterprise (VSBE) – A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.
- MM. YRBS – Youth Risk Behavior Survey
- NN. YTS – Youth Tobacco Survey